

# NATIVE AMERICAN FINANCIAL SERVICES ORGANIZATION ACT OF 1995

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Y 4. IN 2/11: S. HRC. 104-180

Native American Financial Services...

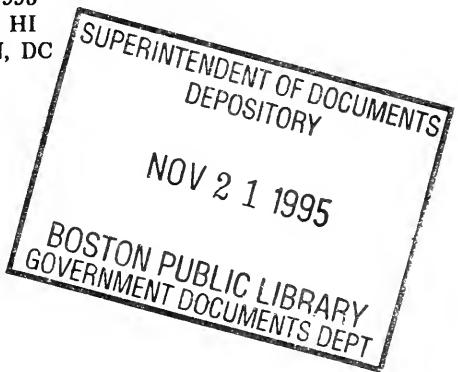
## HEARING BEFORE THE COMMITTEE ON INDIAN AFFAIRS UNITED STATES SENATE ONE HUNDRED FOURTH CONGRESS FIRST SESSION

ON

### S. 436

TO IMPROVE THE ECONOMIC CONDITIONS AND SUPPLY OF HOUSING  
IN NATIVE AMERICAN COMMUNITIES BY CREATING THE NATIVE  
AMERICAN FINANCIAL SERVICES ORGANIZATION

JUNE 1, 8, 1995  
HONOLULU, HI  
WASHINGTON, DC



U.S. GOVERNMENT PRINTING OFFICE

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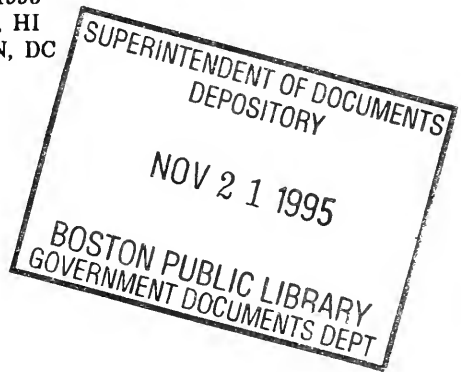
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# **NATIVE AMERICAN FINANCIAL SERVICES ORGANIZATION ACT OF 1995**

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**THURSDAY, JUNE 1, 1995**

**U.S. SENATE,  
COMMITTEE ON INDIAN AFFAIRS,  
*Honolulu, HI.***

The committee met, pursuant to other business, at 11 a.m. at Aha Kaulike, U.S. District Court Room, 4th Floor, U.S. Court House Building, 300 Ala Moana Boulevard, Honolulu, HI, Hon. Daniel K. Inouye (vice chairman of the committee) presiding.

Present: Senators Inouye and Akaka.

## **STATEMENT OF HON. DANIEL K. INOUE, U.S. SENATOR FROM HAWAII, VICE CHAIRMAN, COMMITTEE ON INDIAN AFFAIRS**

Senator INOUE. S. 436 is a bill to improve the economic conditions and supply of housing in Native American communities by creating the Native American Financial Services Organization.

There have been two recent studies of the housing conditions that the Native people of America must confront on a daily basis. The first such study was authorized by the United States Congress and conducted by the National Commission on American Indian, Alaska Native and Native Hawaiian Housing. The second study was commissioned by the Department of Housing and Urban Development and performed under a contract with the Urban Institute. Both studies found that the conditions of housing in Native America are deplorable at best.

Both studies documented the lack of private capital for the development of housing on lands which are held in trust, and the reluctance of lenders to make loans for the construction of housing on land which cannot be mortgaged, encumbered or alienated.

Both studies found that existing Federal housing programs do not meet the needs for housing in Native communities. Based upon these findings, the Administration proposed the introduction of a bill to establish a Native American Financial Services Organization.

If enacted into law, this bill would create a congressionally-chartered corporation to help serve the mortgage, economic development, and other lending needs of Native Americans by assisting in the establishment and organization of Native American community lending institutions that would be called Native American Financial Institutions.

Native American Financial Institutions could be any type of financial institution, including community banks, credit unions and

savings banks, and thus, these institutions could provide a wide range of services.

The Native American Financial Services Organization would develop and provide financial expertise and technical assistance to the Native American financial institutions, including assistance on how to overcome barriers to lending on Native American lands, and the past and present impact of discrimination.

This organization will promote access to mortgage and economic development credit throughout Native American communities by increasing the liquidity of such financing and improving the distribution of investment capital available for such financing, primarily through the Native American financial institutions.

Working primarily through the institutions, the Native American Financial Services Organization would direct sources of public and private capital into housing and economic development for Native American individuals and families. The organization would provide ongoing assistance to secondary markets for residential mortgages and economic development loans for individuals and families; financial institutions and other borrowers by increasing the liquidity of such investments, and improving the distribution of investment capital available for such financing.

The organization would be authorized to issue two classes of stock. As presently drafted, S. 436 would provide authority for the Native American Financial Services Organization to issue Class A stocks to American Indian Tribes on the basis of their tribal population. Class A stock would be vested with voting rights, with each share being nontransferable and entitled to one vote.

The second class of stock that the organization would be authorized to issue would be class B stock, which would be issued in exchange for capital contributions. When authorized to be issued by the board of directors of the Native American Financial Services Organization, the class B stock would also be voting stock and dividends could be declared.

The Organization would also be authorized to impose charges or fees with the objective that the organization would be fully self-supporting in terms of the costs and expenses associated with the Organization's operation. The Organization would be authorized to borrow money, provide security, pay interest, or other return, and to issue notes, debentures, bonds and other obligations upon the approval of the Secretary of the Treasury.

A \$20 million aggregate limitation is placed upon the total assets and liabilities of the Organization. Initially, the Organization would be a congressionally-chartered organization, with a board of directors, corporate powers and other general corporate governance matters.

Approximately 10 years after the date of enactment of the act, the congressional charter for the organization would terminate and the board of directors would be charged with the formation of a new private corporation to carry on the business of the organization following the approval of a plan for the merger of the Organization with the newly-founded corporation. Upon approval of the merger plan by the Secretary of Housing and Urban Development, all assets of the organization would be transferred to the new corporation.



The board of directors of the Native American Financial Services Organization would consist of nine persons, three of whom would be appointed by the President, six elected by the class A stockholders. If the Board elects to issue class B stock, the board would consist of 13 persons, with the four additional members elected by class B stockholders.

In addition, this bill authorizes the establishment of an advisory council. Members of the advisory council would be appointed by the board of directors with at least nine members being Native American.

Before we hear from the witnesses today, I think it is important that the record show why this committee is so concerned about housing opportunities for Native Hawaiians. The most recent study that I referred to earlier is one which was conducted by the Urban Institute for the Department of Housing and Urban Development [HUD]. That study found,

Native Hawaiians experience greater affordability, overcrowding, and structural inadequacy problems than non-Native Hawaiians in all housing environments throughout the State.

Overall, the study found that in 1990, Native Hawaiians were more likely to experience one or more housing problems than non-Native Hawaiians with low-income Hawaiians experiencing the highest incident of housing problems. While the study found that all households in Hawaii face extremely high housing costs, Native Hawaiians are disproportionately impacted because of their lower earnings. Confronted with high costs of housing, Native Hawaiians are more likely than non-Native Hawaiians to live with subfamilies, have multiple wage earners, and live in smaller units of generally poorer quality.

A recent study by SMS Research concluded that on any given day, over 20 percent of all homeless persons in the State of Hawaii are Native Hawaiians. Coupled with the unemployment rate amongst Native Hawaiians, which is twice as high as the unemployment rate for non-Native Hawaiians around the State, and family income which is less than 50 percent of the regional county median, it is perhaps not surprising that overcrowding in Native Hawaiian homes is double that of non-Native Hawaiian homes.

The Urban Institute study found that home ownership opportunities for Native Hawaiians have always been limited and have decreased due to rapid increases in housing costs. The study found that the estimated probability of a Native Hawaiian household, not living on the homelands—with income less than 80 percent of the regional median income—owning a home in 1990 was only 29 percent. The study concludes that housing for Native Hawaiians will continue to be in short supply due to expected population growth and current housing production trends.

It is projected that Native Hawaiian households will increase by 30 percent over the 10 year period from 1990 to the year 2000, with the result that the demand for housing will far outstrip the supply.

With these statistics in mind, I am personally disappointed that S. 436 does not reflect the recommendations of the National Commission on American Indian, Alaska Native and Native Hawaiian Housing, namely, that Native Hawaiians should be amongst those

whose foreclosure from housing opportunities this bill is designed to address. Accordingly, the committee meets today to receive testimony on the justification for expanding the scope of S. 436 to address the housing conditions on Native Hawaiian lands and the housing needs of Native Hawaiian communities.

I would like to start that again. The bill that we are considering does not include Native Hawaiians and I intend to present to the committee an amendment which will address this problem. What I wish to receive from the community will be testimony this morning that will support this amendment.

[Text of S. 436 follows:]

104TH CONGRESS  
1ST SESSION

# S. 436

To improve the economic conditions and supply of housing in Native American communities by creating the Native American Financial Services Organization, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 16 (legislative day, JANUARY 30), 1995

Mr. CAMPBELL (for himself, Mr. INOUE, Mr. MCCAIN, and Mr. DASCHLE) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

---

## A BILL

To improve the economic conditions and supply of housing in Native American communities by creating the Native American Financial Services Organization, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Native American Financial Services Organization Act of  
6 1995”.

7 (b) TABLE OF CONTENTS.—The table of contents for  
8 this Act is as follows:

Sec. 1. Short title.

#### TITLE I—STATEMENT OF POLICY; DEFINITIONS

Sec. 101. Policy.

Sec. 102. Statement of purposes.

Sec. 103. Definitions.

#### TITLE II—NATIVE AMERICAN FINANCIAL SERVICES ORGANIZATION

Sec. 201. Establishment of the organization.

Sec. 202. Authorized assistance and service functions.

Sec. 203. Native American lending services grant.

Sec. 204. Audits.

Sec. 205. Annual housing and economic development reports.

Sec. 206. Advisory Council.

#### TITLE III—CAPITALIZATION OF ORGANIZATION

Sec. 301. Capitalization of the organization.

Sec. 302. Obligations and securities of the organization.

Sec. 303. Limit on total assets and liabilities.

#### TITLE IV—REGULATION, EXAMINATION, AND REPORTS

Sec. 401. Regulation, examination, and reports.

Sec. 402. Authority of the Secretary of Housing and Urban Development.

#### TITLE V—FORMATION OF NEW CORPORATION

Sec. 501. Formation of new corporation.

Sec. 502. Adoption and approval of merger plan.

Sec. 503. Consummation of merger.

Sec. 504. Transition.

Sec. 505. Effect of merger.

#### TITLE VI—AUTHORIZATIONS OF APPROPRIATIONS

Sec. 601. Authorization of appropriations for Native American Financial Institutions.

Sec. 602. Authorization of appropriations for organization.

## 1           **TITLE I—STATEMENT OF** 2           **POLICY; DEFINITIONS**

### 3   **SEC. 101. POLICY.**

4           (a) IN GENERAL.—Based upon the findings and rec-  
5 ommendations of the Commission on American Indian,  
6 Alaska Native and Native Hawaiian Housing established

1 by the Department of Housing and Urban Development  
2 Reform Act of 1989, the Congress has determined that—

3 (1) housing shortages and deplorable living con-  
4 ditions are at crisis proportions in Native American  
5 communities throughout the United States; and

6 (2) the lack of private capital to finance hous-  
7 ing and economic development for Native Americans  
8 and Native American communities seriously exacer-  
9 bates these housing shortages and poor living condi-  
10 tions.

11 (b) POLICY OF THE UNITED STATES TO ADDRESS  
12 NATIVE AMERICAN HOUSING SHORTAGE.—It is the policy  
13 of the United States to improve the economic conditions  
14 and supply of housing in Native American communities  
15 throughout the United States by creating the Native  
16 American Financial Services Organization to address the  
17 housing shortages and poor living conditions described in  
18 subsection (a).

19 **SEC. 102. STATEMENT OF PURPOSES.**

20 The purposes of this Act are—

21 (1) to help serve the mortgage and other lend-  
22 ing needs of Native Americans by assisting in the es-  
23 tablishment and organization of Native American  
24 Financial Institutions, developing and providing fi-  
25 nancial expertise and technical assistance to Native

1 American Financial Institutions, including assist-  
2 ance concerning overcoming—

3 (A) barriers to lending with respect to Na-  
4 tive American lands; and

5 (B) the past and present impact of dis-  
6 crimination;

7 (2) to promote access to mortgage credit in Na-  
8 tive American communities in the United States by  
9 increasing the liquidity of financing for housing and  
10 improving the distribution of investment capital  
11 available for such financing, primarily through Na-  
12 tive American Financial Institutions;

13 (3) to promote the infusion of public capital  
14 into Native American communities throughout the  
15 United States and to direct sources of public and  
16 private capital into housing and economic develop-  
17 ment for Native American individuals and families,  
18 primarily through Native American Financial Insti-  
19 tutions; and

20 (4) to provide ongoing assistance to the second-  
21 ary market for residential mortgages and economic  
22 development loans for Native American individuals  
23 and families, Native American Financial Institu-  
24 tions, and other borrowers by increasing the liquidity

1 of such investments and improving the distribution  
2 of investment capital available for such financing.

3 **SEC. 103. DEFINITIONS.**

4 For purposes of this Act, the following definitions  
5 shall apply:

6 (1) **ALASKA NATIVE.**—The term “Alaska Na-  
7 tive” has the meaning given the term “Native” by  
8 section 3(b) of the Alaska Native Claims Settlement  
9 Act.

10 (2) **BOARD.**—The term “Board” means the  
11 Board of Directors of the Organization established  
12 under section 201(a)(2).

13 (3) **CHAIRPERSON.**—The term “Chairperson”  
14 means the chairperson of the Board.

15 (4) **COUNCIL.**—The term “Council” means the  
16 Advisory Council established under section 206.

17 (5) **DESIGNATED MERGER DATE.**—The term  
18 “designated merger date” means the specific cal-  
19 endar date and time of day designated by the Board  
20 under section 502(b).

21 (6) **DIRECTOR.**—The term “Director” means  
22 the Director of the Office of Federal Housing Enter-  
23 prise Oversight of the Department of Housing and  
24 Urban Development.

1           (7) FUND.—The term “Fund” means the Com-  
2           munity Development Financial Institutions Fund es-  
3           tablished under section 104 of the Riegle Commu-  
4           nity Development and Regulatory Improvement Act  
5           of 1994.

6           (8) INDIAN TRIBE.—The term “Indian tribe”  
7           means any Indian tribe, band, nation, or other orga-  
8           nized group or community, including any Alaska Na-  
9           tive village or regional or village corporation as de-  
10          fined in or established pursuant to the Alaska Na-  
11          tive Claims Settlement Act that is recognized as eli-  
12          gible for the special programs and services provided  
13          by the Federal Government to Indians because of  
14          their status as Indians.

15          (9) MERGER PLAN.—The term “merger plan”  
16          means the plan of merger adopted by the Board  
17          under section 502(a).

18          (10) NATIVE AMERICAN.—The term “Native  
19          American” means any member of an Indian tribe.

20          (11) NATIVE AMERICAN FINANCIAL INSTITU-  
21          TION.—The term “Native American Financial Insti-  
22          tution” means a person (other than an individual)  
23          that—

24                 (A) qualifies as a community development  
25                 financial institution under section 103 of the



1 Riegle Community Development and Regulatory  
2 Improvement Act of 1994;

3 (B) satisfies the requirements established  
4 by the Riegle Community Development and  
5 Regulatory Improvement Act of 1994 and the  
6 Fund for applicants for assistance from the  
7 Fund;

8 (C) demonstrates a special interest and ex-  
9 pertise in serving the primary economic develop-  
10 ment and mortgage lending needs of the Native  
11 American community; and

12 (D) demonstrates that the person has the  
13 endorsement of the Native American commu-  
14 nity that the person intends to serve.

15 (12) NATIVE AMERICAN LENDER.—The term  
16 “Native American lender” means a Native American  
17 governing body, Native American housing authority,  
18 or other Native American Financial Institution that  
19 acts as a primary mortgage or economic develop-  
20 ment lender in a Native American community.

21 (13) NEW CORPORATION.—The term “new cor-  
22 poration” means the corporation formed in accord-  
23 ance with title V.

24 (14) NONQUALIFYING MORTGAGE LOAN.—The  
25 term “nonqualifying mortgage loan” means a mort-

1       gage loan that is determined by the Organization, on  
2       the basis of the quality, type, class, or principal  
3       amount of the loan, to fail to meet the purchase  
4       standards of the Federal National Mortgage Asso-  
5       ciation or the Federal Home Loan Mortgage Cor-  
6       poration in effect on September 30, 1994.

7           (15) ORGANIZATION.—The term “Organiza-  
8       tion” means the Native American Financial Services  
9       Organization established under section 201.

10          (16) QUALIFYING MORTGAGE LOAN.—The term  
11       “qualifying mortgage loan” means a mortgage loan  
12       that is determined by the Organization, on the basis  
13       of the quality, type, class or principal amount of the  
14       loan, to meet the purchase standards of the Federal  
15       National Mortgage Association or the Federal Home  
16       Loan Mortgage Corporation in effect on September  
17       30, 1994.

18          (17) TRANSITION PERIOD.—The term “transi-  
19       tion period” means the period beginning on the date  
20       on which the merger plan is approved by both the  
21       Secretary of Housing and Urban Development and  
22       the Secretary of the Treasury and ending on the  
23       designated merger date.

1 **TITLE II—NATIVE AMERICAN FI-**  
2 **NANCIAL SERVICES ORGANI-**  
3 **ZATION**

4 **SEC. 201. ESTABLISHMENT OF THE ORGANIZATION.**

5 (a) CREATION; BOARD OF DIRECTORS; POLICIES;  
6 PRINCIPAL OFFICE; MEMBERSHIP; VACANCIES.—

7 (1) CREATION.—

8 (A) IN GENERAL.—There is established  
9 and chartered a corporation to be known as the  
10 Native American Financial Services Organiza-  
11 tion.

12 (B) PERIOD OF TIME.—The Organization  
13 shall be a congressionally chartered body cor-  
14 porate until the earlier of—

15 (i) the designated merger date; or

16 (ii) the date on which the charter is  
17 surrendered by the Organization.

18 (C) CHANGES TO CHARTER.—The right to  
19 revise, amend, or modify the Organization char-  
20 ter is specifically and exclusively reserved to the  
21 Congress.

22 (2) BOARD OF DIRECTORS; PRINCIPAL OF-  
23 FICE.—

24 (A) BOARD.—The powers of the Organiza-  
25 tion shall be vested in a Board of Directors.

1           The Board shall determine the policies that  
2           govern the operations and management of the  
3           Organization.

4           (B) PRINCIPAL OFFICE; RESIDENCY.—The  
5           principal office of the Organization shall be in  
6           the District of Columbia. For purposes of  
7           venue, the Organization shall be considered to  
8           be a resident of the District of Columbia.

9           (3) MEMBERSHIP.—

10          (A) IN GENERAL.—

11           (i) NINE MEMBERS.—Except as pro-  
12           vided in clause (ii), the Board shall consist  
13           of 9 members, 3 of whom shall be ap-  
14           pointed by the President and 6 of whom  
15           shall be elected by the class A stockhold-  
16           ers, in accordance with the bylaws of the  
17           Organization.

18           (ii) THIRTEEN MEMBERS.—If class B  
19           stock is issued under section 301(b), the  
20           Board shall consist of 13 members, 9 of  
21           whom shall be appointed and elected in ac-  
22           cordance with clause (i) and 4 of whom  
23           shall be elected by the class B stockhold-  
24           ers, in accordance with the bylaws of the  
25           Organization.

1 (B) TERMS.—Each member of the Board  
2 shall be elected or appointed for a 4-year term,  
3 except that the members of the initial Board  
4 shall be elected or appointed for the following  
5 terms:

6 (i) Of the 3 members appointed by  
7 the President—

8 (I) 1 member shall be appointed  
9 for a 2-year term;

10 (II) 1 member shall be appointed  
11 for a 3-year term; and

12 (III) 1 member shall be ap-  
13 pointed for a 4-year term;  
14 as designated by the President at the time  
15 of the appointments.

16 (ii) Of the 6 members elected by the  
17 class A stockholders—

18 (I) 2 members shall each be  
19 elected for a 2-year term;

20 (II) 2 members shall each be  
21 elected for a 3-year term; and

22 (III) 2 members shall each be  
23 elected for a 4-year term.

1 (iii) If class B stock is issued and 4  
2 additional members are elected by the class  
3 B stockholders—

4 (I) 1 member shall be elected for  
5 a 2-year term;

6 (II) 1 member shall be elected  
7 for a 3-year term; and

8 (III) 2 members shall each be  
9 elected for a 4-year term.

10 (C) QUALIFICATIONS.—Each member ap-  
11 pointed by the President shall have expertise in  
12 1 or more of the following areas:

13 (i) Native American housing and eco-  
14 nomic development programs.

15 (ii) Financing in Native American  
16 communities.

17 (iii) Native American governing bodies  
18 and court systems.

19 (iv) Restricted and trust land issues,  
20 economic development, and small consumer  
21 loans.

22 (D) CHAIRPERSON.—The Board shall se-  
23 lect a Chairperson from among its members, ex-  
24 cept that the initial Chairperson shall be se-  
25 lected from among the members of the initial

1 Board who have been appointed or elected to  
2 serve for a 4-year term.

3 (E) VACANCIES.—

4 (i) APPOINTED MEMBERS.—Any va-  
5 cancy in the appointed membership of the  
6 Board shall be filled by appointment by the  
7 President, but only for the unexpired por-  
8 tion of the term.

9 (ii) ELECTED MEMBERS.—Any va-  
10 cancy in the elected membership of the  
11 Board shall be filled by appointment by the  
12 Board, but only for the unexpired portion  
13 of the term.

14 (F) TRANSITIONS.—Any member of the  
15 Board may continue to serve after the expira-  
16 tion of the term for which the member was ap-  
17 pointed or elected until a qualified successor  
18 has been appointed or elected.

19 (b) POWERS OF THE ORGANIZATION.—The Organi-  
20 zation may—

21 (1) adopt, alter, and use a corporate seal;

22 (2) adopt bylaws, consistent with this Act, regu-  
23 lating, among other things, the manner in which—

24 (A) the business of the Organization shall  
25 be conducted;

1 (B) the elected members of the Board shall  
2 be elected;

3 (C) the stock of the Organization shall be  
4 issued, held, and disposed of;

5 (D) the property of the Organization shall  
6 be disposed of; and

7 (E) the powers and privileges granted to  
8 the Organization by this Act and other law  
9 shall be exercised;

10 (3) make and perform contracts, agreements,  
11 and commitments, including entering into a coopera-  
12 tive agreement with the Fund;

13 (4) prescribe and impose fees and charges for  
14 services provided by the Organization;

15 (5)(A) settle, adjust, and compromise; and

16 (B) with or without consideration or benefit to  
17 the Organization, release or waive in whole or in  
18 part, in advance or otherwise, any claim, demand, or  
19 right of, by, or against the Organization;

20 if such settlement, adjustment, compromise, release,  
21 or waiver is not adverse to the interests of the Unit-  
22 ed States;

23 (6) sue and be sued, complain and defend, in  
24 any tribal, Federal, State, or other court;



1           (7) acquire, take, hold, and own, and to deal  
2 with and dispose of any property;

3           (8) determine the necessary expenditures of the  
4 Organization and the manner in which such expendi-  
5 tures shall be incurred, allowed, and paid, and ap-  
6 point, employ, and fix and provide for the compensa-  
7 tion and benefits of officers, employees, attorneys,  
8 and agents as the Board determines reasonable and  
9 not inconsistent with this section;

10          (9) incorporate a new corporation under State,  
11 District of Columbia, or tribal law, as provided in  
12 section 501;

13          (10) adopt a plan of merger, as provided in sec-  
14 tion 502;

15          (11) consummate the merger of the Organiza-  
16 tion into the new corporation, as provided in section  
17 503; and

18          (12) have succession until the designated merg-  
19 er date or any earlier date on which the Organiza-  
20 tion surrenders its Federal charter.

21          (e) INVESTMENT OF FUNDS; DESIGNATION AS DE-  
22 POSITARY, CUSTODIAN, OR AGENT.—

23               (1) INVESTMENT OF FUNDS.—Funds of the Or-  
24 ganization that are not required to meet current op-  
25 erating expenses shall be invested in obligations of,

1 or obligations guaranteed by, the United States or  
 2 any agency thereof, or in obligations, participations,  
 3 or other instruments that are lawful investments for  
 4 fiduciary, trust, or public funds.

5 (2) DESIGNATION AS DEPOSITARY, CUSTODIAN,  
 6 OR AGENT.—Any Federal Reserve bank or Federal  
 7 home loan bank, or any bank as to which at the time  
 8 of its designation by the Organization there is out-  
 9 standing a designation by the Secretary of the  
 10 Treasury as a general or other depositary of public  
 11 money, may—

12 (A) be designated by the Organization as  
 13 a depositary or custodian or as a fiscal or other  
 14 agent of the Organization; and

15 (B) act as such depositary, custodian, or  
 16 agent.

17 (d) ACTIONS BY AND AGAINST THE ORGANIZA-  
 18 TION.—Notwithstanding section 1349 of title 28, United  
 19 States Code, or any other provision of law—

20 (1) the Organization shall be deemed to be an  
 21 agency covered under sections 1345 and 1442 of  
 22 title 28, United States Code;

23 (2) any civil action to which the Organization is  
 24 a party shall be deemed to arise under the laws of  
 25 the United States, and the appropriate district court

1 of the United States shall have original jurisdiction  
2 over any such action, without regard to amount or  
3 value; and

4 (3) any civil or other action, case, or con-  
5 troversy in a tribal court, court of a State, or in any  
6 court other than a district court of the United  
7 States, to which the Organization is a party, may at  
8 any time before the commencement of the trial be  
9 removed by the Organization, without the giving of  
10 any bond or security and by following any procedure  
11 for removal of causes in effect at the time of the re-  
12 moval—

13 (A) to the district court of the United  
14 States for the district and division in which the  
15 action is pending;

16 (B) or, if there is no such district court, to  
17 the district court of the United States for the  
18 District of Columbia.

19 **SEC. 202. AUTHORIZED ASSISTANCE AND SERVICE FUNC-**  
20 **TIONS.**

21 (a) **TECHNICAL ASSISTANCE AND SERVICES.**—The  
22 Organization may—

23 (1) assist the Fund in the establishment and  
24 organization of Native American Financial Institu-  
25 tions;

1           (2) assist the Fund in developing and providing  
2       financial expertise and technical assistance to Native  
3       American Financial Institutions, including methods  
4       of underwriting, securing, servicing, packaging, and  
5       selling mortgage and small commercial and  
6       consumer loans;

7           (3) develop and provide specialized technical as-  
8       sistance on overcoming barriers to primary mortgage  
9       lending on Native American lands, including issues  
10      related to trust lands, discrimination, high operating  
11      costs, and inapplicability of standard underwriting  
12      criteria;

13          (4) assist the Fund in providing mortgage un-  
14      derwriting assistance (but not in originating loans)  
15      under contract to Native American Financial Insti-  
16      tutions;

17          (5) work with the Federal National Mortgage  
18      Association, the Federal Home Loan Mortgage Cor-  
19      poration, and other participants in the secondary  
20      market for home mortgage instruments in identify-  
21      ing and eliminating barriers to the purchase of Na-  
22      tive American mortgage loans originated by Native  
23      American Financial Institutions and other lenders in  
24      Native American communities;

(6) obtain capital investments in the Organization from Indian tribes, Native American organizations, and other entities;

(7) assist the Fund in the operation of the Organization as an information clearinghouse by providing information on financial practices to Native American Financial Institutions; and

(8) assist the Fund in monitoring and reporting to the Congress on the performance of Native American Financial Institutions in meeting the economic development and housing credit needs of Native Americans.

(b) PURCHASES AND SALES OF MORTGAGES AND MORTGAGE-BACKED SECURITIES.—

(1) IN GENERAL.—

(A) AUTHORIZATION.—If a determination is made in accordance with subparagraph (B), the Organization may, upon receipt of a written authorization from the Secretary of Housing and Urban Development under this paragraph, carry out any activity described in paragraph (3).

(B) DETERMINATION.—For purposes of subparagraph (A), a determination made under this section is a determination by the Secretary

1 of Housing and Urban Development that the  
2 combined purchases by the Federal National  
3 Mortgage Association and the Federal Home  
4 Loan Mortgage Corporation of residential Na-  
5 tive American nonqualifying mortgage loans  
6 originated by Native American Financial Insti-  
7 tutions and other lenders on housing consisting  
8 of between 1 and 4 dwelling units—

9 (i) in the second year following the es-  
10 tablishment of the Organization, total less  
11 than \$20,000,000 (unless the Organization  
12 can demonstrate to the Secretary of Hous-  
13 ing and Urban Development that such pur-  
14 chase goal could not be met); or

15 (ii) in any succeeding year, total less  
16 than that amount that the Secretary of  
17 Housing and Urban Development has de-  
18 termined and published as a reasonable  
19 Native American mortgage purchase goal  
20 (in accordance with paragraph (2)) for  
21 such combined purchases by the Federal  
22 National Mortgage Association and the  
23 Federal Home Loan Mortgage Corporation  
24 in such year.

1           (2) **FACTORS CONSIDERED.**—In determining  
2       the purchase goal described in paragraph (1)(B)(ii),  
3       the Secretary shall take into account the study by  
4       the Fund of Native American lending and invest-  
5       ment conducted pursuant to section 117(c) of the  
6       Riegle Community Development and Regulatory Im-  
7       provement Act of 1994.

8           (3) **POWERS OF THE ORGANIZATION.**—Upon re-  
9       ceiving a written authorization from the Secretary of  
10      Housing and Urban Development under paragraph  
11      (1), the Organization may, at any time—

12           (A) with respect to residential mortgage  
13      loans originated by Native American Financial  
14      Institutions that are qualifying mortgage  
15      loans—

16           (i) purchase such qualifying mortgage  
17      loans;

18           (ii) hold such qualifying mortgage  
19      loans for a period of not to exceed 12  
20      months; and

21           (iii) resell such qualifying mortgage  
22      loans to the Federal National Mortgage  
23      Association, the Federal Home Loan Mort-  
24      gage Corporation, or other secondary mar-

1 ket participants, as provided in section  
2 303(b);

3 (B) with respect to residential mortgage  
4 loans originated by the Native American Finan-  
5 cial Institutions that are nonqualifying mort-  
6 gage loans—

7 (i) purchase such nonqualifying mort-  
8 gage loans from the Native American Fi-  
9 nancial Institutions for such terms as the  
10 Organization determines to be appropriate,  
11 including the life of the mortgage loan, if,  
12 with respect to any such loan—

13 (I) the Organization has reason-  
14 able assurance that the loan will be  
15 repaid within the time agreed;

16 (II) the Native American Finan-  
17 cial Institution selling the loan retains  
18 a participation of not less than 10  
19 percent in the mortgage;

20 (III) the Native American Finan-  
21 cial Institution selling the loan agrees  
22 for such period of time and under  
23 such circumstances as the Organiza-  
24 tion may require, to repurchase or re-  
25 place the mortgage upon demand of



1 the Organization in the event that the  
2 loan is in default; or

3 (IV) that portion of the outstand-  
4 ing principal balance of the loan  
5 which exceeds 80 percent of the value  
6 of the property securing such loan is  
7 guaranteed or insured by a qualified  
8 insurer, as determined by the Organi-  
9 zation; and

10 (ii) issue mortgage-backed securities  
11 or other forms of participations based on  
12 pools of such nonqualifying mortgage  
13 loans, as provided in section 303(c); and

14 (C) purchase, service, sell, lend on the se-  
15 curity of, and otherwise deal in—

16 (i) residential mortgages that are se-  
17 cured by a subordinate lien against a prop-  
18 erty consisting of 1 to 4 dwelling units  
19 that is the principal residence of the mort-  
20 gagee; and

21 (ii) residential mortgages that are se-  
22 cured by a subordinate lien against a prop-  
23 erty consisting of five or more dwelling  
24 units.

25 (4) RIGHTS AND REMEDIES.—

1           (A) IN GENERAL.—The rights and remedies of the Organization, including any rights  
2           and remedies of the Organization on, under, or  
3           with respect to any mortgage or any obligation  
4           secured thereby, shall be immune from impairment, limitation, or restriction by or under any  
5           State, District of Columbia, or tribal—  
6           State, District of Columbia, or tribal—  
7           State, District of Columbia, or tribal—

8                   (i) law that becomes effective after the  
9                   acquisition by the Organization of the subject or property on, under, or with respect  
10                  to which such right or remedy arises or exists or would so arise or exist in the absence of such law; or  
11                  to which such right or remedy arises or exists or would so arise or exist in the absence of such law; or  
12                  to which such right or remedy arises or exists or would so arise or exist in the absence of such law; or  
13                  to which such right or remedy arises or exists or would so arise or exist in the absence of such law; or

14                  (ii) administrative or other action that  
15                  becomes effective after such acquisition.

16           (B) QUALIFICATION.—The Organization  
17           may conduct its business without regard to any  
18           qualification or similar requirement in the District of Columbia, or any State or tribal jurisdiction.  
19           may conduct its business without regard to any  
20           qualification or similar requirement in the District of Columbia, or any State or tribal jurisdiction.

21 **SEC. 203. NATIVE AMERICAN LENDING SERVICES GRANT.**

22           (a) INITIAL GRANT PAYMENT.—If the Fund and the  
23           Organization enter into a cooperative agreement for the  
24           Organization to provide technical assistance and other  
25           services to Native American Financial Institutions, such

1 agreement shall, to the extent that funds are available as  
 2 provided in section 602, provide that the initial grant pay-  
 3 ment, anticipated to be \$5,000,000, shall be made when  
 4 all members of the initial Board have been appointed  
 5 under section 201.

6 (b) PAYMENT OF GRANT BALANCE.—The payment  
 7 of the grant balance of \$5,000,000 shall be made to the  
 8 Organization not later than 1 year after the date on which  
 9 the initial grant payment is made under subsection (a).

10 **SEC. 204. AUDITS.**

11 (a) INDEPENDENT AUDITS.—

12 (1) IN GENERAL.—The Organization shall have  
 13 an annual independent audit made of its financial  
 14 statements by an independent public accountant in  
 15 accordance with generally accepted auditing stand-  
 16 ards.

17 (2) DETERMINATIONS.—In conducting an audit  
 18 under this subsection, the independent public ac-  
 19 countant shall determine and report on whether the  
 20 financial statements of the Organization—

21 (A) are presented fairly in accordance with  
 22 generally accepted accounting principles; and

23 (B) to the extent determined necessary by  
 24 the Director, comply with any disclosure re-  
 25 quirements imposed under section 401.

1 (b) GAO AUDITS.—

2 (1) IN GENERAL.—Beginning after the first 2  
3 years of the operation of the Organization, unless an  
4 earlier date is required by any other statute, grant,  
5 or agreement, the programs, activities, receipts, ex-  
6 penditures, and financial transactions of the Organi-  
7 zation shall be subject to audit by the Comptroller  
8 General of the United States under such rules and  
9 regulations as may be prescribed by the Comptroller  
10 General.

11 (2) ACCESS.—To carry out this subsection, the  
12 representatives of the General Accounting Office  
13 shall—

14 (A) have access to all books, accounts, fi-  
15 nancial records, reports, files, and all other pa-  
16 pers, things, or property belonging to or in use  
17 by the Organization and necessary to facilitate  
18 the audit;

19 (B) be afforded full facilities for verifying  
20 transactions with the balances or securities held  
21 by depositaries, fiscal agents, and custodians;  
22 and

23 (C) have access, upon request to the Orga-  
24 nization or any auditor for an audit of the Or-  
25 ganization under subsection (a), to any books,

1 accounts, financial records, reports, files, or  
2 other papers, or property belonging to or in use  
3 by the Organization and used in any such audit  
4 and to any papers, records, files, and reports of  
5 the auditor used in such an audit.

6 (3) REPORTS.—The Comptroller General of the  
7 United States shall submit to the Congress a report  
8 on each audit conducted under this subsection.

9 (4) REIMBURSEMENT.—The Organization shall  
10 reimburse the General Accounting Office for the full  
11 cost of any audit conducted under this subsection.

12 **SEC. 205. ANNUAL HOUSING AND ECONOMIC DEVELOP-**  
13 **MENT REPORTS.**

14 Not later than 1 year after the date of enactment  
15 of this Act, and annually thereafter, the Organization shall  
16 collect, maintain, and provide to the Secretary of Housing  
17 and Urban Development, in a form determined by the Sec-  
18 retary, such data as the Secretary determines to be appro-  
19 priate with respect to the Organization's—

20 (1) mortgages on properties consisting of be-  
21 tween 1 and 4 dwelling units;

22 (2) mortgages on properties consisting of five or  
23 more dwelling units; and

24 (3) activities relating to economic development.

1 **SEC. 206. ADVISORY COUNCIL.**

2 (a) **ESTABLISHMENT.**—The Board shall establish an  
3 Advisory Council in accordance with this section.

4 (b) **MEMBERSHIP.**—

5 (1) **IN GENERAL.**—The Council shall consist of  
6 13 members, who shall be appointed by the Board,  
7 including 1 representative from each of the 12 dis-  
8 tricts established by the Bureau of Indian Affairs  
9 and 1 representative from the State of Hawaii.

10 (2) **QUALIFICATIONS.**—Not less than 6 of the  
11 members of the Council shall have financial exper-  
12 tise, and not less than 9 members of the Council  
13 shall be Native Americans.

14 (3) **TERMS.**—Each member of the Council shall  
15 be appointed for a 4-year term, except that the ini-  
16 tial Council shall be appointed, as designated by the  
17 Board at the time of appointment, as follows:

18 (A) Four members shall each be appointed  
19 for a 2-year term.

20 (B) Four members shall each be appointed  
21 for a 3-year term.

22 (C) Five members shall each be appointed  
23 for a 4-year term.

24 (e) **DUTIES.**—The Council shall advise the Board on  
25 all policy matters of the Organization. Through the re-  
26 gional representation of its members, the Council shall

1 provide information to the Board from all sectors of the  
2 Native American community.

### 3 **TITLE III—CAPITALIZATION OF** 4 **ORGANIZATION**

#### 5 **SEC. 301. CAPITALIZATION OF THE ORGANIZATION.**

6 (a) CLASS A STOCK.—The class A stock of the Orga-  
7 nization shall—

8 (1) be issued only to Indian tribes;

9 (2) be allocated on the basis of Indian tribe  
10 population, as determined by the Secretary of Hous-  
11 ing and Urban Development in consultation with the  
12 Secretary of the Interior;

13 (3) have such par value and other characteris-  
14 tics as the Organization shall provide;

15 (4) be vested with voting rights, each share  
16 being entitled to 1 vote;

17 (5) be nontransferable; and

18 (6) be surrendered to the Organization if the  
19 holder ceases to be recognized as an Indian tribe  
20 under this Act.

21 (b) CLASS B STOCK.—

22 (1) IN GENERAL.—The Organization may issue  
23 class B stock evidencing capital contributions in the  
24 manner and amount, and subject to any limitations

1 on concentration of ownership, as may be established  
2 by the Organization.

3 (2) CHARACTERISTICS.—Any class B stock is-  
4 sued under paragraph (1) shall—

5 (A) be available for purchase by investors;

6 (B) be entitled to such dividends as may  
7 be declared by the Board in accordance with  
8 subsection (c);

9 (C) have such par value and other charae-  
10 teristics as the Organization shall provide;

11 (D) be vested with voting rights, each  
12 share being entitled to 1 vote; and

13 (E) be transferable only on the books of  
14 the Organization.

15 (c) CHARGES AND FEES; EARNINGS.—

16 (1) CHARGES AND FEES.—The Organization  
17 may impose charges or fees, which may be regarded  
18 as elements of pricing, with the objectives that—

19 (A) all costs and expenses of the oper-  
20 ations of the Organization should be within the  
21 income of the Organization derived from such  
22 operations; and

23 (B) such operations would be fully self-  
24 supporting.



1           (2) EARNINGS.—All earnings from the oper-  
2           ations of the Organization shall be annually trans-  
3           ferred to the general surplus account of the Organi-  
4           zation. At any time, funds in the general surplus ac-  
5           count may, in the discretion of the Board, be trans-  
6           ferred to the reserves of the Organization.

7           (d) CAPITAL DISTRIBUTIONS.—

8           (1) IN GENERAL.—Except as provided in para-  
9           graph (2), the Organization may make such capital  
10          distributions (as such term is defined in section  
11          1303 of the Federal Housing Financial Safety and  
12          Soundness Act of 1992) as may be declared by the  
13          Board. All capital distributions shall be charged  
14          against the general surplus account of the Organiza-  
15          tion.

16          (2) RESTRICTION.—The Organization may not  
17          make any capital distribution that would decrease  
18          the total capital (as such term is defined in section  
19          1303 of the Federal Housing Financial Safety and  
20          Soundness Act of 1992) of the Organization to an  
21          amount less than the capital level for the Organiza-  
22          tion established under section 401, without prior  
23          written approval of the distribution by the Director.

1   **SEC. 302. OBLIGATIONS AND SECURITIES OF THE ORGANI-**  
2                                   **ZATION.**

3           (a) IN GENERAL.—

4               (1) AUTHORIZATION.—The Organization may—

5                       (A) borrow funds to give security or pay  
6                       interest or other return; and

7                       (B) issue upon the approval of the Sec-  
8                       retary of the Treasury, notes, debentures,  
9                       bonds, or other obligations having maturities  
10                      and bearing such rate or rates of interest as  
11                      may be determined by the Organization with  
12                      the approval of the Secretary of the Treasury;  
13                      if such borrowing and issuing of obligations qualifies  
14                      as a transaction by an issuer not involving any pub-  
15                      lic offering under section 4(2) of the Securities Act  
16                      of 1933.

17               (2) RESTRICTIONS.—

18                       (A) IN GENERAL.—Obligations issued by  
19                       the Organization under this section shall not be  
20                       obligations of the United States or any agency  
21                       of the United States.

22                       (B) NO GUARANTEES.—Payment of the  
23                       principal of or interest on such obligations shall  
24                       not be guaranteed by the United States or any  
25                       agency of the United States. The obligations is-

sued by the Organization under this section  
shall so plainly state.

(b) RESALES OF QUALIFYING MORTGAGE LOANS.—

The sale or other disposition by the Organization of qualifying mortgage loans under section 202(b) shall be on such terms and conditions relating to resale, repurchase, substitution, replacement or otherwise as the Organization may prescribe, except that the Organization may not guarantee or insure the payment of any mortgage loan sold under section 202(b).

(c) SECURITIES BACKED BY NONQUALIFYING MORTGAGE LOANS.—Securities in the form of debt obligations or trust certificates of beneficial interest, or both, and based upon nonqualifying mortgage loans held and set aside by the Organization under section 202(b)—

(1) may be issued upon the approval of the Secretary of the Treasury; and

(2) shall have such maturities, and shall bear such rate or rates of interest, as may be determined by the Organization with the approval of the Secretary of the Treasury;

if such issuance qualifies as a transaction by an issuer not involving any public offering under section 4(2) of the Securities Act of 1933.

1 (d) PROHIBITIONS AND RESTRICTIONS; CREATION  
2 OF LIENS AND CHARGES.—

3 (1) IN GENERAL.—The Organization may, by  
4 regulation or by writing executed by the Organiza-  
5 tion—

6 (A) establish prohibitions or restrictions on  
7 the creation of indebtedness or obligations of  
8 the Organization or of liens or charges upon  
9 property of the Organization, including after-ac-  
10 quired property; and

11 (B) create liens and charges, which may be  
12 floating liens or charges, upon all or any part  
13 or parts of the property of the Organization, in-  
14 cluding after-acquired property.

15 (2) EFFECT.—Any prohibition, restriction, lien,  
16 or charge established under paragraph (2) shall—

17 (A) have such effect, including such rank  
18 and priority, as may be provided by regulations  
19 of the Organization or by any writing executed  
20 by the Organization; and

21 (B) create a cause of action which may be  
22 enforced by action in the United States district  
23 court for the District of Columbia or in the  
24 United States district court for any judicial dis-

1           trict in which any of the property affected is lo-  
2           cated.

3           (3) JURISDICTION; SERVICE OF PROCESS.—

4           Process in any action described in paragraph (2)  
5           may run to or be served in any judicial district or  
6           in any place subject to the jurisdiction of the United  
7           States.

8           (e) VALIDITY OF PROVISIONS; VALIDITY OF RE-  
9           STRICTIONS, PROHIBITIONS, LIENS, OR CHARGES.—This  
10          section and any restriction, prohibition, lien, or charge re-  
11          ferred to in subsection (b) shall be fully effective notwith-  
12          standing any other law, including any law of or relating  
13          to sovereign immunity or priority.

14       **SEC. 303. LIMIT ON TOTAL ASSETS AND LIABILITIES.**

15          The aggregate of—

16               (1) the total equity of the Organization, includ-  
17               ing all capital from any issuance of class B stock;  
18               and

19               (2) the total liabilities of the Organization, in-  
20               cluding all obligations issued or incurred by the Or-  
21               ganization;

22          shall not at any time exceed \$20,000,000.

## **TITLE IV—REGULATION, EXAMINATION, AND REPORTS**

### **SEC. 401. REGULATION, EXAMINATION, AND REPORTS.**

(a) EFFECTIVE DATE OF SECTION.—This section shall take effect on the date on which the Secretary of Housing and Urban Development makes a determination in accordance with section 202(b) that the Organization may purchase and sell mortgages and mortgage-backed securities.

(b) IN GENERAL.—The Organization shall be subject to the regulatory authority of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development with respect to all matters relating to the financial safety and soundness of the Organization.

(c) DUTY OF DIRECTOR.—The Director shall ensure that the Organization is adequately capitalized and operating safely as a congressionally chartered body corporate.

(d) POWERS OF DIRECTOR.—The Director shall have all of the exclusive powers granted the Director under subsections (b), (d), and (e) of section 1313 of the Housing and Community Development Act of 1992, as determined by the Director to be necessary or appropriate to regulate the operation of the Organization.

(e) REPORTS TO DIRECTOR.—

1           (1) ANNUAL REPORT.—Not later than 1 year  
2       after the date of enactment of this Act, and annually  
3       thereafter, the Organization shall submit to the Di-  
4       rector a report describing the financial condition and  
5       operations of the Organization. The report shall be  
6       in such form, contain such information, and be sub-  
7       mitted on such date as the Director shall require.

8           (2) OTHER REPORTS.—In addition to the re-  
9       ports submitted under paragraph (1), the Organiza-  
10      tion shall submit to the Director any report required  
11      by the Director pursuant to section 1314 of the  
12      Housing and Community Development Act of 1992.

13          (3) CONTENTS OF REPORT.—Each report sub-  
14      mitted under this subsection shall contain a declara-  
15      tion by the president, vice president, treasurer, or  
16      any other officer of the Organization designated by  
17      the Board to make such declaration, that the report  
18      is true and correct to the best of such officer's  
19      knowledge and belief.

20      (f) FUNDING OFHEO OVERSIGHT.—

21          (1) ASSESSMENT AND COLLECTION.—The Di-  
22      rector shall assess and collect from the Organization  
23      such amounts as are necessary to reimburse the Of-  
24      fice of Federal Housing Enterprise Oversight for the  
25      reasonable costs and expenses of the activities un-

1       dertaken by the Office of Federal Housing Enter-  
2       prise Oversight to carry out the duties of the Direc-  
3       tor under paragraph (2), including the costs of ex-  
4       aminations and overhead expenses.

5               (2) REQUIREMENTS.—Annual assessments im-  
6       posed by the Director shall be—

7               (A) imposed prior to October 1 of each  
8       year;

9               (B) collected at such time or times during  
10       each assessment year as determined necessary  
11       or appropriate by the Director;

12              (C) deposited into the Federal Housing  
13       Enterprises Oversight Fund established by sec-  
14       tion 1316(f) of the Housing and Community  
15       Development Act of 1992; and

16              (D) available, to the extent provided in ap-  
17       propriations Acts, for carrying out the respon-  
18       sibilities of the Director under this section.

19       **SEC. 402. AUTHORITY OF THE SECRETARY OF HOUSING**  
20               **AND URBAN DEVELOPMENT.**

21       Except for the authority of the Director under in see-  
22       tion 401, the Secretary of Housing and Urban Develop-  
23       ment shall—

24              (1) have general regulatory power over the Or-  
25       ganization; and



(2) issue such rules and regulations applicable to the Organization as determined necessary or appropriate by the Secretary to ensure that the purposes specified in section 102 are accomplished.

## **TITLE V—FORMATION OF NEW CORPORATION**

### **SEC. 501. FORMATION OF NEW CORPORATION.**

(a) IN GENERAL.—In order to continue the accomplishment of the purposes specified in section 102 beyond the terms of the charter of the Organization, the Board shall, not later than 10 years after the date of enactment of this Act, cause the formation of a new corporation under the laws of any tribe, any State, or the District of Columbia.

(b) POWERS OF NEW CORPORATION NOT PRESCRIBED.—Except as provided in this section, the new corporation may have any corporate powers and attributes permitted under the laws of the jurisdiction of its incorporation which the Board shall determine, in its business judgment, to be appropriate.

(c) USE OF NAFSO NAME PROHIBITED.—The new corporation may not use in any manner the name “Native American Financial Services Organization” or “NAFSO” or any variation of thereof.

1   **SEC. 502. ADOPTION AND APPROVAL OF MERGER PLAN.**

2       (a) **IN GENERAL.**—Not later than 10 years after the  
3 date of enactment of this Act, the Board shall prepare,  
4 adopt, and submit to the Secretary of Housing and Urban  
5 Development and the Secretary of the Treasury for ap-  
6 proval, a plan for merging the Organization into the new  
7 corporation.

8       (b) **DESIGNATED MERGER DATE.**—

9           (1) **IN GENERAL.**—The Board shall establish  
10 the designated merger date in the merger plan as a  
11 specific calendar date on which and time of day at  
12 which the merger of the Organization into the new  
13 corporation shall take effect.

14          (2) **CHANGES.**—The Board may change the  
15 designated merger date in the merger plan by adopt-  
16 ing an amended plan of merger.

17          (3) **RESTRICTION.**—Except as provided in para-  
18 graph (4), the designated merger date in the merger  
19 plan or any amended merger plan shall not be later  
20 than 11 years after the date of enactment of this  
21 Act.

22          (4) **EXCEPTION.**—Subject to the restriction  
23 contained in paragraph (5), the Board may adopt an  
24 amended plan of merger that designates a date later  
25 than 11 years after the date of enactment of this  
26 Act if the Board submits to both the Secretary of

1       Housing and Urban Development and the Secretary  
2       of the Treasury a report—

3               (A) stating that an orderly merger of the  
4       Organization into the new corporation is not  
5       feasible before the latest date designated by the  
6       Board;

7               (B) explaining why an orderly merger of  
8       the Organization into the new corporation is  
9       not feasible before the latest date designated by  
10      the Board;

11              (C) describing the steps that have been  
12      taken to consummate an orderly merger of the  
13      Organization into the new corporation not later  
14      than 11 years after the date of enactment of  
15      this Act; and

16              (D) describing the steps that will be taken  
17      to consummate an orderly and timely merger of  
18      the Organization into the new corporation.

19              (5) LIMITATION.—The date designated by the  
20      Board in an amended merger plan shall not be later  
21      than 12 years after the date of enactment of this  
22      Act.

23              (6) CONSUMMATION OF MERGER.—The con-  
24      summation of an orderly and timely merger of the  
25      Organization into the new corporation shall not

1       occur later than 13 years after the date of enact-  
2       ment of this Act.

3       (c) GOVERNMENTAL APPROVALS OF MERGER PLAN  
4 REQUIRED.—The merger plan or any amended merger  
5 plan shall take effect on the date on which the plan is  
6 approved by both the Secretary of Housing and Urban De-  
7 velopment and the Secretary of the Treasury.

8       (d) REVISION OF DISAPPROVED MERGER PLAN RE-  
9 QUIRED.—If either the Secretary of Housing and Urban  
10 Development or the Secretary of the Treasury, or both,  
11 disapprove the merger plan or any amended merger  
12 plan—

13           (1) each Secretary that disapproves the plan  
14       shall notify the Organization of such disapproval and  
15       indicate the reasons for the disapproval; and

16           (2) not later than 30 days after the date of no-  
17       tification of disapproval under paragraph (1), the  
18       Organization shall submit to both the Secretary of  
19       Housing and Urban Development and the Secretary  
20       of the Treasury for approval an amended merger  
21       plan responsive to the reasons for the disapproval in-  
22       dicated in such notification.

23       (e) NO STOCKHOLDER APPROVAL OF MERGER PLAN  
24 REQUIRED.—The approval or consent of the stockholders

1 of the Organization shall not be required to accomplish  
2 the merger of the Organization into the new corporation.

3 **SEC. 503. CONSUMMATION OF MERGER.**

4 The Board shall ensure that the merger of the Orga-  
5 nization into the new corporation is accomplished in ac-  
6 cordance with—

7 (1) the merger plan approved by the Secretary  
8 of Housing and Urban Development and the Sec-  
9 retary of the Treasury; and

10 (2) all applicable laws of the jurisdiction in  
11 which the new corporation is incorporated.

12 **SEC. 504. TRANSITION.**

13 (a) CONTINUATION OF RIGHTS, DUTIES, AND RE-  
14 STRICTIONS.—Except as provided in this section, the Or-  
15 ganization shall, during the transition period, continue to  
16 have all of the rights, privileges, duties, and obligations,  
17 and shall be subject to all of the limitations and restric-  
18 tions, set forth in this Act.

19 (b) COLLATERALIZATION OF OUTSTANDING OBLIGA-  
20 TIONS.—

21 (1) IN GENERAL.—The Organization shall pro-  
22 vide for all debt obligations of the Organization that  
23 are outstanding on the date before the designated  
24 merger date to be secured as to principal and inter-

1 est by obligations of the United States held in trust  
2 for the holders of such obligations.

3 (2) REQUIREMENTS, TERMS, AND CONDI-  
4 TIONS.—The collateralization and the trust referred  
5 to in the preceding sentence shall be subject to such  
6 requirements, terms, and conditions as the Secretary  
7 of the Treasury determines to be necessary or appro-  
8 priate.

9 (c) ISSUANCE OF NEW OBLIGATIONS DURING TRAN-  
10 SITION PERIOD.—As needed to carry out the purposes for  
11 which it was formed, the Organization may, during the  
12 transition period, continue to issue obligations under sec-  
13 tion 303. Any new obligation issued during the transition  
14 period shall mature before the designated merger date.

15 **SEC. 505. EFFECT OF MERGER.**

16 (a) TRANSFER OF ASSETS AND LIABILITIES.—

17 (1) TRANSFER OF ASSETS.—On the designated  
18 merger date, all property, real, personal, and mixed,  
19 all debts due on any account, and any other interest  
20 of or belonging to or due to the Organization shall  
21 be transferred to and vested in the new corporation  
22 without further act or deed, and title to any prop-  
23 erty, whether real, personal, or mixed, shall not in  
24 any way be impaired by reason of the merger.

1           (2) TRANSFER OF LIABILITIES.—On the des-  
2           ignated merger date, the new corporation shall be  
3           responsible and liable for all obligations and liabil-  
4           ities of the Organization and neither the rights of  
5           creditors nor any liens upon the property of the Or-  
6           ganization shall be impaired by the merger.

7           (b) TERMINATION OF THE ORGANIZATION AND ITS  
8           FEDERAL CHARTER.—On the designated merger date—

9           (1) the surviving corporation of the merger  
10          shall be the new corporation;

11          (2) the Federal charter of the Organization  
12          shall terminate; and

13          (3) the separate existence of the Organization  
14          shall terminate.

15          (c) REFERENCES TO THE ORGANIZATION IN LAW.—  
16          After the designated merger date, any reference to the Or-  
17          ganization in any law or regulation shall be deemed to  
18          refer to the new corporation.

19          (d) SAVINGS CLAUSE.—

20          (1) PROCEEDINGS.—The merger of the Organi-  
21          zation into the new corporation shall not abate any  
22          proceeding commenced by or against the Organiza-  
23          tion before the designated merger date, except that  
24          the new corporation shall be substituted for the Or-

1       ganization as a party to any such proceeding as of  
2       the designated merger date.

3           (2) CONTRACTS AND AGREEMENTS.—All con-  
4       tracts and agreements to which the Organization is  
5       a party and which are in effect on the day before the  
6       designated merger date shall continue in effect ac-  
7       cording to their terms, except that the new corpora-  
8       tion shall be substituted for the Organization as a  
9       party to those contracts and agreements as of the  
10      designated merger date.

## 11   **TITLE VI—AUTHORIZATIONS OF** 12   **APPROPRIATIONS**

### 13   **SEC. 601. AUTHORIZATION OF APPROPRIATIONS FOR NA-** 14   **TIVE AMERICAN FINANCIAL INSTITUTIONS.**

15       (a) IN GENERAL.—There are authorized to be appro-  
16      priated to the Fund, without fiscal year limitation,  
17      \$20,000,000 to provide financial assistance to Native  
18      American Financial Institutions.

19       (b) NOT MATCHING FUNDS.—To the extent that a  
20      Native American Financial Institution receives a portion  
21      of an appropriation made under subsection (a), such funds  
22      shall not be considered to be matching funds required of  
23      the Native American Financial Institution under section  
24      108(e) of the Riegle Community Development and Regu-  
25      latory Improvement Act of 1994.



1 **SEC. 602. AUTHORIZATION OF APPROPRIATIONS FOR OR-**  
2 **GANIZATION.**

3       The Secretary of Housing and Urban Development  
4 may, to the extent provided in advance in an appropria-  
5 tions Act, provide not more than \$10,000,000 to the Fund  
6 for the funding of a cooperative agreement to be entered  
7 into by the Fund and the Organization for technical as-  
8 sistance and other services to be provided by the Organiza-  
9 tion to Native American Financial Institutions.

○

Senator INOUE. So, may I first call upon the Chairman of the Hawaiian Homes Commission, Kali Watson. Mr. Chairman, welcome.

**STATEMENT OF KALI WATSON, CHAIRMAN, HAWAIIAN HOMES COMMISSION, STATE OF HAWAII**

Mr. WATSON. Thank you, Senator.

I'd also like to say good morning and I appreciate this opportunity to present testimony on the proposed amendment in the future of S. 436. Along with myself is Deputy Director, Jobie Yamaquchi; as we well as members of my staff.

With respect to what you previously said, I'm in total agreement that there is a dire need to address the concerns of housing dealing with Native Hawaiians. Regarding the statistics that you talked about, we recently completed a preliminary survey and there seems to be the same situation that existed when the Urban Institute conducted their survey. Our 1995 survey indicates that 71.2 percent of Hawaiian homeland beneficiaries earn less than 80 percent of the median family income. More so, there's 42.5 percent of the Native Hawaiians on our waiting list that are below 50 percent of the median family income. 22.2% are in the 0 to 30 percent of the median income and 19.8 percent are in the 31 to 50 percent median family income.

Considering the fact that we have over 27,290 applications which make up over 16,000 individuals that represent families that are on our waiting list, in addition to that there are 50,000 individuals that qualify but are not yet on our waiting list. So there is a tremendous need for this Native American Financial Services Organization to also address the needs of Native Hawaiians rather than just Alaskans and Indians. We're hopeful that with your assistance and Senator Akaka, this amendment will take effect.

With respect to my written testimony, I'd ask that it be made a part of the record for consideration by the full committee.

Senator INOUE. Without objection, so ordered.

Mr. WATSON. Senator, with respect to the homeless and overcrowding and the twice unemployment rates that you talked about, that's true. All of that is true, but when you expand and look at some of the other social-economic problems that are facing our Hawaiian people, it becomes even more distinct and outrageous as to their conditions.

Recently, I read about the situation with our children that are being born. Something like 46 percent of the individuals are born to unwed mothers; 18 percent of that involves teenagers. You have the highest incidence of child neglect and abuse among Hawaiians besides unemployment and child neglect and socioeconomic problems all traces back to the housing situation.

There is a tremendous need but unfortunately, living in Hawaii where the median cost of housing is over \$300,000, there are few within the Hawaiian community who can afford those kinds of houses. Recently, we did a project out in Hooahooalea, Econo Estates, where the prices were from \$78,000 to \$145,000. We had to go through over 4,000 people on our waiting list just to get 271 people qualified for those types of houses at those prices. So that tells you a lot about the makeup of the people on our waiting list, that

they just can't afford not only the typical cost of houses here in Hawaii, but even the reduced cost that we as a department are trying to put forth. I think with the idea of creating this various banking and credit unions that cater to the needs of our Hawaiian community, we might best address some of the needs.

Regarding existing programs, it's not to say the Federal Government has totally abandoned us, but we do have existing programs. FHA presently does insured lending programs and we have about 355 loans under this program. Farmers Home has about 311 loans and the SBA has about 45. There are about 24 loans under the Veterans Affairs programs which has been a real godsend for our members who are ex-members of the military. I'd like to see an expansion in those areas through this proposed legislation.

I would recommend that there be certain amendments made to this proposed legislation including language in the legislation which would raise the ceiling that is presently imposed upon us at the State level. Presently, we're required or are limited to \$21 million in loans. By lifting that ceiling, it expands our availability of funds that we can use to issue loans. Also, under the existing proposed legislation, it requires that 10 percent of the loan amount be provided by the agency. I would propose that the 10 percent be eliminated. Presently under our FHA and Farmers Home Program, the Department doesn't put up any money; we're not required to put up a percentage of the loan amount. Rather than encumbering our existing funds through this proposed legislation, I would suggest that the 10 percent requirement be eliminated. [Section 202 par. 3B(i)(II)]

Another recommendation would be to put in legislation that allows subsidies or buydowns on these loan amounts. If we're going to have the various Native Hawaiian banking institutions, I'd suggest that there be legislation which allows the Federal Government to not only put up the \$20 million, but also in the future, if it finds it appropriate, and I think it would, to allow the Federal Government to provide additional funds which can further reduce the cost of the loans to our people.

These are the various areas that can improve the legislation. More importantly, it's amazing that when the Commission met previously, Mrs. Drake was a member of the Commission, and there was a clear indication that the needs that address Alaskans as well as the Indians exist among Native Hawaiians. This Commission, in their supplemental report, made that finding. It's amazing that the existing proposed legislation does not include Native Hawaiians. I don't know whether that was an intentional act by the drafters or the Administration but I hope they will reconsider and follow your suggestion, Senator, and change that so we can include the Native Hawaiians so we can also benefit from this program.

Thank you, Senator.

[Prepared statement of Mr. Watson appears in appendix.]

Senator INOUE. I thank you very much, Mr. Chairman. I am certain you sense that one of the reasons that the Administration may have kept out Native Hawaiians is a source of much disagreement over the years. The lawyers for the Government of the United States have contended now for many years that when Hawaii became a State, as part of its statehood an omnibus act was adopted

and that omnibus act, the responsibilities for the homelands were transferred to the State. Because of this, the Government of the United States has maintained that the trust responsibility that may have existed from the time of annexation to the time of statehood disappeared.

I have always pointed out to those who maintain that position that I happened to be a member of Congress at the time the omnibus act was adopted. In fact, I had to be the one to introduce that measure. One of the lesser known provisions in that Act touches upon the very problem you speak of. There is a provision that says that all acts of the State of Hawaii that touch upon the beneficiaries of the Hawaiian homelands or the land itself, or the distribution of the land will be subject to the approval of the Congress.

In other words, the Government of the United States did not thoroughly wash its hands; they are very much involved. I have maintained that as long as you have Federal involvement, the trust responsibility is not extinguished. On that foundation, we have been adopting legislation such as the Native Hawaiian Education Act, the Native Hawaiian Health Care Improvement Act, et cetera.

I can assure you as far as the committee on which I sit is concerned, we will very likely adopt the amendment but with the new leadership in the Congress, I don't know what the sentiments will be, but I can assure you that everything possible will be done to make certain that in this small way, we will rectify some of the wrongs that have been committed.

As to your suggestion on lifting the cap, what cap would you put on it?

Mr. WATSON. I wouldn't put on any cap.

Senator INOUE. So you would lift the cap from \$21 million and just leave it alone?

Mr. WATSON. Leave it open. The Department presently is taking a very aggressive approach in dealing with our delinquency. We have about 22 percent of our loans that are delinquent, but we're in the process of taking steps to resolve a lot of that, recognizing that we are set up to provide rehabilitation, we have to temper these management efforts with the concerns regarding rehabilitation. In situations where there clearly is no rational basis for not paying, there needs to be reorganization regarding priority. The Department is being very aggressive with those individuals.

I would also say recognizing the situation in Congress, rather than maybe funding this thing, if we can at least set up the mechanism or structure in which it's going to operate, that might be an area that—if there's no funding involved, Congress may be more inclined to at least pass that type of legislation. The Department is in the process of getting \$600 million over a 20-year period. I would like to see where we could leverage those funds through Native American Financial Services Organizations by using some of our funds, I don't have any problems with that. There's other ways to skin a cat but the important thing is we need maybe some Federal legislation to allow us to at least explore that. So if the funding is going to be a problem, I'd say maybe reduce it or delete it. I don't know, I'm just throwing that out as a suggestion.

As you may know, the legislative process in the Federal legislature is a bit different from the one in the State of Hawaii. In the Congress, it's a two-step affair. First, we authorize. This is an authorizing bill in which the moneys will not be appropriated. Once the authorizing bill becomes law, then we proceed with appropriating the necessary moneys. However, it doesn't necessarily mean that the Congress will appropriate the moneys; it may go up or down or zero it out as we have seen in recent days.

I think the record should show at this juncture that to the best of my knowledge, on the Native Hawaiian Revolving Fund, as you know, we have the revolving fund to assist Native Hawaiian businesses, has a perfect record, no defaults. You hear a lot of bad-mouthing about Hawaiians being irresponsible, but in this Federal program, which is not a huge program but it's been going on for several years now, not a single default. I think we can be extremely proud of that because there are countless of other loan programs throughout the United States and I don't think any other loan program can step forward and say there's no default. I've yet to hear of one default in the Native Hawaiian Revolving Fund, revolving loans. It just continues on.

I might also add to that with regard to our loans program. The FHA, in that we have zero defaults. Those are more recent loans where we've taken a bit more closer look at the financial capabilities of the individual before we make the loan, contrary to how we did them in the past in the 1970s where most of our defaults have occurred. So, yes, I'd agree with you, Senator, that there's a lot to be proud of regarding the revolving fund but also under the FHA program. Our lessees and borrowers have been very diligent in ensuring they comply with the requirements and have done so.

Senator INOUE. Well, Mr. Chairman, I am going to publicly congratulate you first. This is the first time I have had the opportunity of congratulating you on your appointment as chairman of the commission and I look forward to working with you.

Mr. WATSON. Thank you, Senator.

Senator INOUE. Thank you.

Now, may I call upon a panel of distinguished members of this community: the Chairman of the State Council of Hawaiian Homestead Associations, Kamaki Kanahele; the Housing Office of the Office of Hawaiian Affairs, Steve Morse; the Vice Chair of the Hawaiian Home Lands Action Network, Mary Minchew; the Executive Director of the Self-Help Housing Corporation of Hawaii, Claudia Shay; and an Executive Board Member and Legislative Chairman of the Hui Ka Koo Aina Hoo Pūlapūla, Kawika Gaperō.

As always, it is a great pleasure to receive testimony from Chairman Kanahele.

#### **STATEMENT OF KAMAKI KANAHELE, CHAIRMAN, STATE COUNCIL OF HAWAIIAN HOMESTEAD ASSOCIATIONS**

Mr. KANAHELE. Aloha, Mr. Chairman, and welcome home. To my two sisters: Dr. Zell, I hope you'll consider getting a home here in Hawaii one day, calling this your second home; to my wonderful sister, Hawley Manwarring, welcome home. I'm happy to see you.

Mr. Chairman, my name is Kamaki Kanahele for the record. I am Chairman of the State Council of Hawaiian Homestead Associa-

tions, the SCHHA. The SCHHA is the State's largest native Hawaiian organization representing 23 homestead associations with a membership now of approximately 30,000. If you remember, Senator, when we began 33 years ago, we only had two but the body has grown.

I am here today to see support from the Committee on Indian Affairs for the inclusion of Native Hawaiians to S. 436, a bill to improve the economic conditions and supply of housing in Native American communities by creating the Native American Financial Services Organization.

The SCHHA is on record, by formal Resolution, which is enclosed, at its State Convention, August 24, 1993, of unanimously supporting the recommendations of the National Commission on American Indian, Alaska Native and Native Hawaiian Housing. Also, at the Commission's quarterly meeting in December 1993, the SCHHA included in its testimony the recommendation for a National Native American Financial Services Institution which is when it was first heard here in Hawaii.

Our relationship with our brothers and sisters of the great plains, the Sacred Hills and mountains and all the lands of their ancestors, with their brothers and sisters from the islands of the seas, has grown with Mana, Lokahi, and Aloha. The recent arrival of the National American Indian Housing Council [NAIHC] last month to Hawaii brought the largest attendance to their convention in many years. I was honored personally to be asked by the NAIHC to bless their convention.

While the NAIHC was here in April, the SCHHA hosted them on our home lands, Waimanalo and Nanakuli, breaking bread together, conducting spiritual ceremonies and coming together as one. Mr. Chairman, in all this, we discovered we are one people and that the possibilities of working together as one people to better the conditions for all native Americans across this great Nation has been occurring.

Our problems, issues and, concerns are the same when it is dealing with we native peoples. The opportunity to work together in solving housing and socioeconomic needs for all native peoples can be a continuing positive reality if this committee will allow it. Precedence has been set in the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing Act which includes Native Hawaiians. Such a recommendation would also be consistent with the Commission's draft recommendation of July 2, 1993, "The Native American Finance Authority Act," which included Native Hawaiians.

The results of our working relationship with our Native American brothers and sisters has been and continues to be a Native American success story. The SCHHA supports an amendment to S. 436 to allow these good works by the Congress to continue.

As a note, Mr. Chairman, on the resolution that is enclosed, we would like to note the fourth, fifth and sixth whereas it is highlight the fact that the Commission itself has recommended that the Federal Government acknowledge its trust responsibilities to Native Hawaiians and the next whereas in that it also include Native Hawaiians in every deliberation that has to do with housing; and finally, two of the Nation's largest Native American Indian organiza-

tions—the NAIHC and the National Congress of American Indians representing 119 tribal governments—have voted overwhelmingly to support the Commission's recommendations to include Native Hawaiians.

It is important to recognize this, Mr. Chairman, and that the committee, as well as the Congress, note that it is by cultural traditions of both our peoples—Native American Indians and Native American Hawaiians that unless a call of welcome into a house is presented, Native Hawaiians would not allow themselves to commit to a membership of any house where we are not invited.

The examples that have been presented in my testimony highlight examples of membership and participation by all of our Nations as one people. Surely this bill would allow that to continue.

In closing, may I thank you, Mr. Chairman, personally because in the last 10 to 15 years that you have sat on this committee as its Chair, it is you who has allowed Native American Indians and Native American Hawaiians to sit together in council so that we may gradually understand culturally the significance of our peoples as one. It has taken many years, there have been difficulties, as you know, about the sensitivity of our working relationships, but over those past 10 years, through your major help, the singlemost important as far as I'm concerned, the nations have all come together in one. This bill allowing it to happen by law for us to participate continuously with our brothers and sisters is a call to allow us to continue the good works.

Mahalo Nui Loa.

[Prepared statement of Mr. Kanahele appears in appendix.]

Senator INOUE. I thank you very much, Mr. Kanahele. Listening to you brought back memories of the time when I assumed the chair of this committee. At that time, there was no question, most Indian leaders in Indian country looked upon my assumption of the chair with grave reservations and a lot of suspicion that the Hawaiians were going to take over. I think over the years they have learned that Native Hawaiians have served to assist and they have assisted in very meaningful ways and as a result, I think Indian country is most appreciative now. That is why they not only love you, they welcome you.

Now may I call upon the Housing Officer of the OHA, Mr. Morse.

#### **STATEMENT OF STEVE MORSE, HOUSING OFFICER, OFFICE OF HAWAIIAN AFFAIRS, HONOLULU, HI**

Mr. MORSE. Aloha kakahiaka, Senator Inouye, and if I may, I'd like to say aloha to Ms. Zell who has worked very hard with all of us over the past 2 years to try and fashion some housing legislation for Native Hawaiians.

I'd also like to wish my aloha to Hawley Manwarring whose family I have known for much too long than I care to say.

With your permission, Senator, I would like to introduce my original comments for the record and summarize in the interest of time.

Senator INOUE. Without objection, as I have indicated, your full testimony will be made a part of the record.

Mr. MORSE. Senator, the Office of Hawaiian Affairs supports the basic tenets of this bill. We would be remiss if we didn't support

them. The bill, as a whole, is an excellent one that will provide many financial benefits to Native Americans throughout the country. In the interest of supporting the many Native American friends that we met 2 months ago here as part of the National American Indian Housing Council's convention, again, I think we would be remiss if we didn't support the basic tenets of the bill.

However, we are concerned and deeply disturbed that Native Hawaiians are not included in the participation of this program. We find it ironic that we are excluded because Native Hawaiians have helped shape the policies that laid the foundation for this bill through our participation on the Housing Commission that included other Native Americans. It makes no sense to us that we are excluded. Our traditions and histories are similar; certainly our problems, needs and desires are very much the same.

The main thing we'd like to put across to you today is that OHA is in a position now to really commit resources toward resolving the many housing and economic problems that are suffered by Native Hawaiians. Thanks to a ceded land income claim settlement that was made 2 years ago, we now have an asset pool of \$180 million which puts us in a position to commit more resources and use our asset base to leverage private capital.

For example, OHA, with cooperation of the Department of Hawaiian Homelands and First Hawaiian Bank, has established a \$20 million revolving home loan program for Native Hawaiians on Hawaiian homelands. This program provides \$10 million in funding for home improvement and repair loans and \$10 million for down-payment loans that assist Native Hawaiians in purchasing new homes on Hawaiian homelands.

Second, our Housing Division is also working actively to expand our self-help housing program from one that averaged 10 homes a year for the past 3 years to one that will help facilitate the building of approximately 300 homes in the next 3 to 5 years for Hawaiians statewide, both on and off homelands.

Third, we have also prepared a long-range housing and community development plan that is designed to build or re-build sustainable Hawaiian communities throughout the State. With the assistance of a \$500,000 affordable housing grant from the Federal Home Loan Bank of Seattle, we are planning to develop our first project as part of this long-range plan.

Under an agreement that we have reached with DHHL, this project will be located on a parcel of Hawaiian homelands in Waimanalo, Oahu. It will include 60 units of low income rental housing for elderly Native Hawaiians, a community center that will serve the broader Hawaiian homestead community in that area, and a commercial center that will be designed to stimulate economic activity and ultimately build wealth into this community. This project is expected to be completed in June 1997.

In addition, OHA's Economic Development Division, with loan principal grant assistance from the Administration for Native Americans has established, as you indicated earlier, a very successful business loan program for Native Hawaiians called the Native Hawaiian Revolving Loan Fund. As of April 30, 1995, OHA has approved 259 loans, totaling \$11,528,708 to Native Hawaiians who could not qualify for conventional financing.



The division has also been working closely with various Native Hawaiian communities to facilitate economic development activity within these communities through its Community-Based Economic Development Program. Both of these programs, and this is the important point we want to make here, seek opportunities to attract otherwise unavailable private capital by leveraging OHA's financial and technical resources.

The problems of poverty, housing, and health and the general lack of wealth in Hawaiian communities are so widespread and of such immense proportions that our resources alone cannot resolve them. That is why the inclusion of Native Hawaiians in this bill is so important. It will make possible the development of creative opportunities for constructive, private sector, financial participation through leveraging of OHA and DHHL's resources.

We propose amending S. 436 to provide for Native Hawaiians participation as follows: amend section 103, Definitions, by adding the following definition for Native Hawaiians: any individual who is a descendant of the aboriginal Polynesian people and who, prior to 1778, occupied and exercised sovereignty and self-determination in that area that now comprises the State of Hawaii; secondly, amend Section 103, Definitions, (10) Native American, to read, "The term 'Native American' means any member of an Indian tribe and Native Hawaiians, as previously defined in this section."

We also believe that the appropriation included in this measure falls far short of meeting the need and we suggest and recommend that the \$20 million appropriation for providing assistance to the Native American Financial Services Institution perhaps be enlarged to \$100 million. We realize that the conditions in Congress may impede this type of expansion of appropriations but we always hear that Native Americans have not wanted Native Hawaiians to be included in HUD Programs which benefit Native Americans because we would be taking moneys away from them. I think that's true and in all fairness to our friends in Native American country, this appropriation should be expanded if Native Hawaiians are included in the measure.

In conclusion, Senator, by making these amendments, we believe the committee will begin the process of removing financing barriers that have impeded development of housing on Native Hawaiian lands and economic activity in Native Hawaiian communities. It will also begin the process of correcting longstanding injustices and fulfilling the Federal Government's trust responsibilities to Native Hawaiians.

Mahalo a nui loa for providing us with this opportunity to provide testimony and I would be happy to answer any questions.

[Prepared statement of Mr. Morse appears in appendix.]

Senator INOUE. I thank you very much, Mr. Morse.

May I now call on Vice Chairman of the Hawaiian Home Lands Action Network, Ms. Minchew.

#### **STATEMENT OF MARY MINCHEW, VICE CHAIRMAN, HAWAIIAN HOME LANDS ACTION NETWORK**

Ms. MINCHEW. Aloha, Senator Inouye.

My name is Mary Minchew and I represent the Hawaiian Home Lands Action Network (HHLAN). Formed in 1992, our primary in-

terest is promoting preserving and protecting the rights of Native Hawaiians to the lands to which they are entitled under the Hawaiian Homes Commission Act (HHCAA) and Section 5 (f) of the Hawaii Admission Act.

Basically, my testimony goes over what everyone has said, so I'm just going to touch on the points that have not been reviewed.

In Section 103, DEFINITIONS, pages 5 & 6, they still should be amended to add Native Hawaiians defined as anyone with Hawaiian ancestry. My concern is in the statistics that are given as far as homelessness, poverty, unwed mothers, health problems, the statistics are just for 50 percent Hawaiians. So as in the Hawaiian Housing Authority Act, a Native Hawaiian was anyone with Hawaiian ancestry and we would like that added in if the Native Hawaiian is added to this bill.

Also, in Section 206, Advisory Council, part (b)(1), line 9, it should be amended, if possible, to "and one Native Hawaiian representative from the State of Hawaii."

Section 602. AUTHORIZATION OF APPROPRIATIONS FOR ORGANIZATION, line 5, also should be amended to increase the amount of moneys HAD is allowed to appropriate to, "provide not more than \$20 million to the Fund."

If these amendments are made, the Hawaiian Home Lands Action Network is in strong support of this bill. These amendments will allow native Hawaiians to benefit from this bill, it will guarantee their participation in the process, and assure their involvement in the advisory council. Because of the amount of native Indian and Alaskan tribes, native Hawaiians will be competing for moneys that may not trickle down to them because of the many established Indian and Alaskan organizations. Twenty million dollars will not be enough to sufficiently provide Native Americans the opportunity to improve the bad economic and housing conditions plaguing their communities, as intended.

Our concern is there are a lot of Indian organizations and they are much more ahead of us, they are more advanced, they have their organizations more established and we're still trying to come together. This will allow us, if more money is provided, the time to set up our organizations also and to provide ourselves with technical assistance.

These amendments will allow Native Hawaiians to benefit from this bill. It will guarantee their participation in the process and ensure their involvement.

I'd like to thank you for this opportunity to testify.

[Prepared statement of Ms. Minchew appears in appendix.]

Senator INOUE. I thank you very much, Ms. Minchew.

Now I will call on the Director of the Self-Help Housing Corporation, Ms. Shay.

#### **STATEMENT OF CLAUDIA SHAY, EXECUTIVE DIRECTOR, SELF-HELP HOUSING CORPORATION OF HAWAII**

Ms. SHAY. Senator Inouye, my name is Claudia Shay and I am the Executive Director of the Self-Help Housing Corporation of Hawaii [SHHCH].

The Self-Help Housing Corporation of Hawaii offers testimony in support of S. 436 and respectfully requests that the bill be amend-

ed to provide full representation for Native Hawaiians in the Native American Financial Services Organization.

The Self-Help Housing Corporation of Hawaii, a private non-profit organization, provides technical assistance to low- moderate income families and special needs populations including Native Hawaiians, enabling them to build their own homes through the team self-help method.

In a State with the highest housing prices in the Nation, SHHCH has been successful in assisting 130 low income families to build three and four bedroom homes for \$40,000 per unit while appraised at \$90,000. By utilizing the "sweat equity," subsidies on financing, land write-downs, and creative financing, et cetera, SHHCH has enabled low income families, who otherwise would not have had the opportunities, to attain home ownership.

Throughout its 10 years of service, SHHCH has interviewed hundreds of Native Hawaiian families, many of whom have participated in the self-help projects. Many of these families lived in severely substandard conditions, or very crowded situations with two and three families doubled up in three bedroom homes. It was not unusual to find a young family with two or three children living in one room in their parents' house. Several families were homeless or "hidden homeless," that is, living with family in crowded situations and about to be displaced.

In addition to the appalling living conditions, there were several recurring problems inhibiting the families' ability to obtain mortgage financing including: inconsistent employment, high debt/income ratios, credit problems, inability to budget family income, lack of knowledge of available resources, unrealistic goals of attaining home ownership, et cetera. To ameliorate these situations it was necessary to provide intensive financial counselling to the families as well as several months of preparatory work to ready them to become homeowners.

Coupled with these serious economic and social difficulties, there were other barriers to developing affordable housing projects for Native Hawaiian families. Due to the inalienable nature of the trust land under the guardianship of the Hawaiian Homelands Commission, it has been extremely difficult to secure mortgage financing. In 1986 when SHHCH developed its first self-help project exclusively for Native Hawaiian families, it was even necessary to amend Federal legislation under the Farmers Home Administration to adapt it to special circumstances with the Native Hawaiian loans.

Today, however, there are still only three types of mortgage financing available on Native Hawaiian land—the FmHA 502, FHA, and VA financing programs. It is only with a state mortgage guarantee that these programs are available. In addition to the limited programs and limited funding, lenders have a perception that these loans are "high risk" because they cannot be sold on the secondary market. It is quite obvious from these problems that there is a need for more mortgage financing on Native Hawaiian lands, more diversity of mortgage programs that can be utilized on Native Hawaiian lands, and a need for a secondary market which can accept these nonconforming loans.

Native Hawaiian families in Hawaii not only experience the severe housing crisis in the State as the general population, but are further crippled by the restrictions for mortgage financing on the Native Hawaiian lands. The time has come now to enable Native Hawaiian families to return to their "aina" and attain economic self-sufficiency, a condition once enjoyed by their forefathers before their disenfranchisement.

Toward this end I strongly urge the Committee on Indian Affairs to adopt an amendment to S. 436 by including Native Hawaiians in the legislation. Native Hawaiians experience the same problems as other Native Americans. Should there be a means to ameliorate their serious housing conditions by enactment of this legislation, then Native Hawaiians should be able to benefit from this as do other Native Americans.

[Prepared statement of Ms. Shay appears in appendix.]

Senator INOUE. I thank you very much, Ms. Shay.

Now I call upon the Legislative Chairman of the Hui Ka Koo Aina Hoo Pula Pula, Kawika Gapero.

#### STATEMENT OF KAWIKA GAPERO, LEGISLATIVE CHAIRMAN, HUI KA KOO AINA HOO PULA PULA

Mr. GAPERO. Aloha, Senator, and we welcome you home again. I'd like to say before my testimony, I admire my fellow colleagues for coming forth and addressing this problem.

Hui Ka Koo Aina Hoo Pula Pula was created by the Department of Hawaiian Homelands as a task force that looked into problems we thought existed with the Native Hawaiians who were waiting in the wings for many years. Eventually, we acquired our nonprofit status and became an entity. We've been in existence for about 2 years now and have been actively participating in the community, getting input from our communities.

Again, my name is Kawika Gapero and I am here representing Native Hawaiians who are currently on the Department of Hawaiian Homelands "Waiting List" that was mandated by Congress in 1921. The intent of this act was to establish the mechanism to provide for Native Hawaiians to become "self-sufficient" and to preserve our culture by returning Native Hawaiians to the land.

Unfortunately the Federal Government has repeatedly denied that it has any trust responsibilities for Native Hawaiians under the Hawaiian Homes Commission Act either prior to or following Hawaii becoming a State. If indeed that the Hawaiian Homelands program was to have been facilitated for its true intent and not compromised, scrutinized, demoralized, we as beneficiaries to the "trust" might have had a better chance in attaining "self-sufficiency." Instead, we still suffer the effects of this great injustice that has been done to the Native Hawaiian.

We are not here to blame anyone nor to look for any hand outs. What has been done has been done. We have identified those problems and we want to work hand in hand both with the Federal and State government cohesively in finding solutions that will better our conditions in its entirety. We as Native Hawaiians are hoping that Congress in passing of this bill, will include, without discrimination, Hawaiians, Alaska Natives, and All Native peoples so that

we can access Federal agencies to facilitate housing initiatives and programs including economic development.

In reading of S. 436 in which the creation of the "NAFSO," the Native American Financial Services Organization will be created. The bill which is defined as "To improve the economic conditions and supply of housing in Native American communities and for other purposes." We have to understand what these other purposes are and how it will affect Native Hawaiians. The NAFSO proposal will enable the organization to work with the "Community Development Banking and Regulatory Improvement Act of 1994, Public Law 103-325, which purpose is to create funding to help establish community development banks." We are at this present time researching ways to set up a Native Hawaiian Housing Corporation in which a coalition of native communities through out the state and also to include Native Hawaiians in the process who currently lives away, but who would have otherwise be living on their homelands if it wasn't for the economic conditions that exist here on their beloved homelands.

NAFSO will provide the technical assistance needed in coordinating efforts through the Community Development Fund Initiative known also as CDFI. I'd like to insert at this point that the CDFI has been budgeted for a zero budget and it might not even be around next year. NAFSO will assist us to access capitalization dollars through the CDFI to set up small community banks who in turn will help economic development as well as housing. There is an overwhelming need for housing within the Native Hawaiian community with overcrowding, deplorable living conditions and most of all financing incapacibilities. This however does not hold true for all Native Hawaiians who have otherwise defied and refused to be defeated by the very system that was established to help us to exercise that right to access our ancestral lands, although that percentage is not as high as we would like it to be.

Hopefully with the passage of the "Bill," we will finally see some positive directives that will encompass all Natives of these Lands. We have been supported in two resolutions by the National American Indian Housing Council, which is an organization that represents 187 Indian Housing Authorities throughout the United States and Alaska, for the Federal Government to recognize "that the tribes special trust relationship is binding of all Federal agencies to all Native peoples including Native Hawaiians and Alaska Natives." This resolution was drafted and passed unanimously. NAIHC also supports the efforts of Native Hawaiians to obtain decent, safe, sanitary and affordable housing.

It is our hope that all Hawaiian Organizations will support this effort and hope that we can at least lay the grounds for future generations access and start needed programs that will help all Native Peoples. We strongly urge the inclusion of Native Hawaiians in S. 436.

Mahalo.

[Prepared statement of Mr. Gapero appears in appendix.]

Senator INOUE. I thank you very much, Mr. Gapero.

I think it will be well if I point out at this time that I have been receiving messages from leaders of the National American Indian Housing Council and they have asked me to thank your organiza-

tion for the extraordinary amount of assistance you gave them when they met here in Hawaii.

Before proceeding, I received testimony from several citizens and without objection, the testimony of Mililani Trask of the Gibson Foundation; Lei Kalamau, President of the Aboriginal Native Hawaiian Association; Roy Oshiro, Executive Director, Housing Finance and Development Corporation will be made a part of the record.

[Prepared statements appear in appendix.]

Senator INOUE. I have not been critical of the drafters of S. 436 because I would like to believe that the omission of Native Hawaiians was just a mistake, that it may have been a typographical error.

While Native Hawaiians were not included in this bill, somehow in the section that calls for the establishment of the advisory council, it says there will be a member from the State of Hawaii. So I think it is some inadvertent typographical error and if that is the case, we will try to cure that. In the event that the administration did with deliberation leave out Native Hawaiians because of the question of whether Hawaiians are Native Americans or not, I wanted this hearing with testimony to support the contention that Hawaiians should be included. I think the testimony that all of you have presented today, together with that of the new Chairman of the Hawaiian Homelands, Mr. Watson, will very amply fortify and support the amendment that I can assure you will be made to S. 436.

With that, I would like to thank all of you for taking time out to be with us. This is a very important measure and I am glad that we were able to meet together and share our thoughts. I know that over the years this process we have adopted to rectify the wrongs that were committed some time ago has been painful and at times tortuous and frustrating, but I can assure you that I am a very patient person, I plod along and I hope that by the time I decide it is time for retirement, we will have achieved the big step that we wanted.

I want to see the day when sovereignty will not be an item of discussion but a reality. I want to see a day when there will be a sovereign flag, and I want to see the day when Native Hawaiians will be, without question, recognized by the Government of the United States as Native Americans.

So, working toward that end, I thank you all very much and the hearing is adjourned.

The committee will be holding a hearing on this measure in Washington on June 8. I wish to advise one and all that the record will be kept open for 2 weeks. If you have any supplemental statements you would like to submit or if you have testimony you would like to submit, please feel free to do so but mail it to Washington this time.

Thank you very much.

[Whereupon, the committee was adjourned, to reconvene at the call of the Chair.]

# **NATIVE AMERICAN FINANCIAL SERVICES ORGANIZATION ACT OF 1995**

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**THURSDAY, JUNE 8, 1995**

**U.S. SENATE,  
COMMITTEE ON INDIAN AFFAIRS,  
*Washington, DC.***

The committee met, pursuant to notice, at 9:30 a.m. in room 485, Russell Senate Office Building, Hon. Ben Nighthorse Campbell (acting chairman of the committee) presiding.

Present: Senators McCain, Campbell, Inouye, and Simon.

## **STATEMENT OF HON. BEN NIGHTHORSE CAMPBELL, U.S. SENATOR FROM COLORADO**

Senator CAMPBELL. The committee will come to order.

Chairman McCain will be delayed and will be along shortly. In the interim, I will go ahead and start the hearing.

I would like to welcome everybody who is here to testify this morning. The committee recognizes that many of you have traveled a long way, and we greatly appreciate your time and your effort.

The purpose of this morning's hearing is to receive testimony on S. 436, the Native American Financial Services Organization Act, which is legislation I, Chairman McCain, Vice Chairman Inouye, and Senator Daschle introduced.

This bill would provide financial expertise and technical assistance to such institutions on underwriting, securing, servicing, and selling mortgages and small commercial loans. It would also, very importantly, work with the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and other organizations involved in the secondary market for home mortgage instruments and identifying and eliminating barriers to the purchase of Native American mortgage loans originated by the Native American Financial Institutions and other lenders.

The Federal NAFSO charter would terminate within 10 years, after which its activities would be merged into a private corporation. The bill limits NAFSO assets to \$20 million, and it is anticipated that on privatization NAFSO would grow beyond this limit.

Very simply, this bill is intended to improve the conditions and supply of housing in Native American communities by further developing the financial infrastructure for commercial financing opportunities by and for Indian communities.

Realizing great housing needs within most Indian communities, this legislation is intended to supplement the efforts of existing organizations and not duplicate the functions of any other Govern-

ment-sponsored enterprise. It would also establish a limited federally-chartered corporation, and we think it will go a long way in trying to alleviate the housing problems we now in Indian communities.

I will introduce the rest of my written testimony and ask Senator Inouye if he has an opening statement.

[Prepared statement of Senator Campbell appears in appendix.]

**STATEMENT OF HON. DANIEL K. INOUE, U.S. SENATOR FROM HAWAII, VICE CHAIRMAN, COMMITTEE ON INDIAN AFFAIRS**

Senator INOUE. I thank you very much, Mr. Chairman. I am pleased to serve as a cosponsor of the measure that you have introduced.

In the last session of Congress, this measure was entitled "the Native American Financing Authority," and its provisions addressed the findings of the National Commission on American Indian, Alaska Native, and Native Hawaiian housing.

Based upon the Commission's finding that American Indian, Alaska Native, and Native Hawaiian communities face very similar challenges—namely, lack of access to private financial housing development markets, reluctance to lend money, the critical shortage in housing causing over-crowding, and a reduction in Federal support for housing—the Commission recommended that the needs of all three Native populations—American Indian, Alaska Native, and Native Hawaiian—be addressed through legislation.

In this session of the Congress, the bill that was advanced for our consideration and introduction by the Administration, failed to take in account the recommendations of the Commission, at least insofar as addressing the housing needs of Native Hawaiians.

As you know, Mr. Chairman, last week this committee held a hearing in Hawaii on this measure and on the justification for the inclusion of Native Hawaiians in S. 436.

Mr. Chairman, there have been two studies which have been conducted on Native Hawaiian housing conditions since the time the Commission issued its report. One study conducted by the Urban Institute pursuant to a contract with the Department of Housing and Urban Development, found

Native Hawaiians experience greater affordability, overcrowding, and structural inadequacy problems than non-Native Hawaiians in all housing environments throughout the State of Hawaii.

The second study conducted since the Commission's report was issued, a recent study by SMS Research concluded that "On any given day, over 20 percent of all homeless persons in the State of Hawaii are Native Hawaiians."

Coupled with the unemployment rate amongst Native Hawaiians, which is twice as high as the unemployment rate for non-Native Hawaiians, and family income which is less than 50 percent of the regional county median, it is perhaps not surprising that overcrowding in Native Hawaiian homes is double that of non-Native Hawaiian homes.

But testimony received at the committee's hearing last week provided perhaps the clearest picture of all. Over 42 percent of Native Hawaiians who are eligible to reside on land set aside and held in trust for their benefit remain on a waiting list for housing.



With these facts in mind, I am personally disappointed that S. 436 does not reflect the recommendations of the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing, namely, that Native Hawaiians should be amongst those whose foreclosure from housing opportunities this bill is designed to address.

Accordingly, it is my hope that in the days ahead the members of the committee will give their favorable consideration to my proposal that Native Hawaiians be included in this measure.

Mr. Chairman, I join you in looking forward to the testimony the committee will receive from today's witnesses. I would be most appreciative if the gentleman from the HUD would address the findings of the National Commission as those findings relate to the needs of Native Hawaiian communities.

As recent visitors to the State of Hawaii, I would also like to ask Assistant Secretary Shuldiner, and particularly Director Nessi, who has been so helpful to this committee over the years, to share with the committee their personal views on the housing needs of Native Hawaiian communities.

I thank you very much, Mr. Chairman.

Senator CAMPBELL. With that, if the Administration panel comprising of Joe Shuldiner and Michael Stegman could take seats, we'll go ahead and start with your testimony.

I would tell all witnesses that their complete written testimony and any supporting material will be included in the record, and if they would like to abbreviate their comments they may do so.

We'll start with you, Joe.

**STATEMENT OF JOSEPH SHULDINER, ASSISTANT SECRETARY FOR PUBLIC AND INDIAN HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, WASHINGTON, DC, ACCOMPANIED BY DOM NESSI, DIRECTOR, OFFICE OF NATIVE AMERICAN PROGRAMS, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

Mr. SHULDINER. Good morning, Mr. Chairman. Thank you for having us. Dom Nessi is joining me.

I guess what I would want to summarize for the panel is a repeat of some of what Senator Inouye said—that basically starting with the report from the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing, which identified the need for a Native American financial organization or association of some kind to address what, to us, is a very clear problem: The lack of private financing in and around Native American reservations.

Realistically, Michael will talk about the statistics, but for a variety of reasons there is virtually no private money to be had for mortgages to build or buy homes on the reservation or in contiguous areas.

It was a real effort. There needed to be a real effort to figure out a way to do it, because the alternative is becoming more and more difficult, which is basically that the Federal Government funds all housing. Either ourselves or the VA or some Federal program would be funding housing, and, of course, our housing focuses on the very low income where there are truly needs.

But between the inadequacy of our programs and the fact that there are middle income Native Americans who are not served by these programs, the amount of needs were just too great.

Basically, we then joined an across-departmental effort, and it went on literally for months. We were joined by the Department of Justice, the Bureau of Indian Affairs, the Office of Management and Budget, the Department of Treasury, the Office of Federal Housing Enterprise Oversight, and other agencies in trying to come up with a format that would address the needs that have been identified by the Commission's report and by Assistant Secretary Stegman's studies and, at the same time, given the financial environment of the Federal Government, limit the potential risk to the United States Government.

We believe in this effort we have come up with something that should address the need. What is envisioned here is first taking advantage of some existing organizations—the Community Development Financial Institutions, CDFIs, which is basically legislation that this Administration has sponsored and supported to allow local-based banks or financial institutions to be created in the community.

What we have done is, in effect, ask for the creation of a two-tiered system, an organization that will help Native Americans, tribes, and other groups on the reservation create these CDFIs. In other words, create a primary lending source right on the reservation and to provide technical assistance to do that, and also to access the existing financial enterprise organizations out there such as Fannie Mae, Freddie Mac, et cetera.

But—and importantly—this legislation also has a trigger which basically says that if goals set by the Secretary are not met, then this organization can transform into a secondary lender, itself. It can, in fact, become a Fannie Mae or Freddie Mac and buy loans from those primary lenders.

So we are looking at legislation which we believe actually addresses the needs that have been identified in the community in a graduated way, but will set goals so that they have to be achieved or the powers of this organization increase to help it realize those goals.

There is one other trigger, which is interesting, that basically says that once the business gets to a certain dollar amount, the organization becomes a private entity. It is no longer a Government entity once it has enough resources or does enough business to be self-sustaining.

So, as I said, this was an effort to actually address the need, and the Administration and its partners spent a lot of time putting it together. Dom did a lot of presentations to the other members representing other Departments who are not familiar with Native American issues and housing to bring people up to speed on the need.

We believe in this bill we have crafted a process that will, in fact, address many of those needs and provide mortgage money on the reservation and in contiguous areas.

We would certainly offer our support, and we are prepared to—after Michael speaks, I'd be happy to answer any questions that you might have.

[Prepared statement of Mr. Shuldiner appears in appendix.]  
 Senator CAMPBELL. Thank you.  
 Mr. Stegman.

**STATEMENT OF MICHAEL A. STEGMAN, ASSISTANT SECRETARY FOR POLICY DEVELOPMENT AND RESEARCH, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, WASHINGTON, DC**

Mr. STEGMAN. Thank you, Mr. Chairman.

I will provide a very brief oral statement. A fuller statement is available for the record, which includes the executive summary of the National Assessment of American Indian Housing Needs and Programs.

Senator Inouye, as you know, the addition of the assessment of Native Hawaiian housing needs began after the beginning of the study; after we came into office. As that study is not ready for final release, the executive summary of that study is not part of my testimony. It will be transmitted to the Congress shortly as soon as it is reviewed and cleared in the Department.

Mr. Chairman and members of the committee, HUD's Office of Policy Development and Research commissioned and will shortly release the first national assessment of American Indian housing needs and programs. The Urban Institute researchers conducted the first detailed analysis based on special tabulations from the 1990 census and HUD management data, as well as interviews with Federal officials, Indian Housing Authority officials, tribal leaders, Indian households, mortgage lenders, and selected national experts. In-depth, personal interviews were conducted at 36 representative tribal areas.

The study results indicated that the housing needs of American Indians and Alaska Natives continue to pose a major challenge for public policy due to high rates of poverty, seriously deficient housing conditions, and a largely nonfunctioning private housing market.

I'd like to summarize just a couple of the key findings about housing needs among American Indians and Alaska Natives and their implications for future policy.

The American Indian and Alaska Native population has been growing rapidly—a six-fold increase over the past four decades, reaching a level of 2 million in 1990. This population is highly concentrated in and around tribal areas, including reservations, trust lands, and Alaska Native villages, and the Indian population in these areas is increasing rapidly.

Specifically, the 14 percent of all U.S. counties that contain tribal areas accounted for 60 percent of the American Indian and Alaska Native population in 1990 and captured, interestingly, 78 percent of its growth since 1980. These results and other data suggests that Native American ties to tribal areas remain very strong.

Linking housing indicators with other measures of structural deficiencies reveals—and I'm sure it comes as no surprise to most of us—that the physical housing problems of tribal areas are extreme by national standards; roughly 40 percent of Native American households in these areas live in housing that is overcrowded and

physically deficient compared to a national average of only 6 percent.

The housing problems of Native Americans are more severe than those of non-Indians in all types of communities, but these problems are most severe in tribal areas.

Although Native Americans in tribal areas throughout the United States face severe housing problems, there are important variations among them. For example, 183 of the Nation's 508 inhabited tribal areas are located within 50 miles of an urban center and have as many non-Indians as Indians living within their borders. In these open areas—these so-called “open areas”—the share of Indians living in overcrowded or physically deficient housing is lower, only 12 percent, while the share paying unaffordable cost burdens is higher; 21 percent have high cost burdens living in these open areas.

In contrast, if you look at the 325 tribal areas that are small, profoundly poor, and physically remote, a much larger share of the households face structural housing problems—52 percent—and relatively few have unaffordable housing costs—10 percent. The problem dimensions are reversed; one-half, 52 percent of those in these remote tribal areas, face severe structural housing problems, and only 10 percent have relatively high housing cost burdens.

HUD has played a significant role in attempting to address housing needs within tribal areas, producing about 61,000 units which serve 26 percent of all Indian households and 42 percent of those with low incomes. Nevertheless, about 94,300 low-income Native American households live in unassisted housing in tribal areas, and 45 percent—almost half of these households—have serious unmet housing needs.

This research identifies significant opportunities for the private sector to play an increased role in providing home ownership opportunities for Native American families living in or near tribal areas.

For example, in the counties immediate surrounding tribal areas, the surrounding counties, 51 percent of Native American households have incomes that are 80 percent or more of county median income. Moreover, the 183 open tribal areas—that are near the urban areas and with significant non-Indian populations—typically have a fairly strong private employment base and a comparatively low proportion of very poor households. These areas show significant promise for private mortgage lending. This is what Assistant Secretary Shuldiner was talking about. Notably, 38 percent of Native American households within these tribal areas have incomes above 80 percent of median income, and yet very little private lending activity is taking place.

There is potential to make greater use of private financing so that home ownership is accessible for moderate to middle income Native Americans who want to live in tribal areas. HUD, BIA, and other Federal agencies will have to continue to provide assistance, particularly to the many small, isolated, and impoverished tribes whose conditions are heavily influenced by previous governmental practices and discrimination.

While this study shows clear benefits from Federal housing programs, substantial need remains and will require continued sus-

tained Federal commitments over the next decade and possibly beyond.

More-detailed policy suggestions will be provided when the final report of this study is transmitted to Congress over the next several weeks.

Thank you, Mr. Chairman.

[Prepared statement of Mr. Stegman appears in appendix.]

Senator CAMPBELL. Thank you for your testimony and your Administration's support, too.

Before I ask questions, I know Senator McCain is on a pretty tight schedule, so I would be happy to yield to the chairman.

# STATEMENT OF HON. JOHN MCCAIN, U.S. SENATOR FROM ARIZONA, CHAIRMAN, COMMITTEE ON INDIAN AFFAIRS

The CHAIRMAN. Thank you very much, Senator Campbell.

I'm very pleased to be a cosponsor of this legislation, the bill before the committee today, and I want to commend Senator Campbell for his strong interest and commitment on this issue.

I also would like to thank the Administration, and particularly the leadership of Secretary Cisneros and his team at HUD, for their work on behalf of this legislation.

I support this bill because it will provide practical ways to address what has become a crisis in Indian housing. I, as well as other members of this committee, have seen the conditions that many Native Americans live in, and I find it appalling that some Americans in this day and age live in the conditions in which we find them.

Too many live in severely overcrowded conditions, lack running water, indoor bathrooms, or basic heat. These conditions are more true and more frequent in Indian Country than any other part of America.

S. 346 is a measure that I believe would involve the private lending market in financing Indian housing in a way that would preserve the unique status of Indian lands but strengthen local tribal governments in their effort to increase housing opportunities in their communities.

If tribes and tribal organizations can find ways to improve the bill and sharpen its focus, I know that all the members of this committee will do our best to support such changes.

Senator Campbell and my dear friend, the vice chairman, Senator Inouye, I know you know that we are having another hearing on Bosnia this morning, and I apologize for not being able to remain at the hearing. I leave it in both of your wise and capable hands, and I appreciate your commitment on this issue, as well as many others affecting Native Americans.

Again, I want to thank our friends from HUD for their active assistance and cooperation on this very important issue.

Thank you very much, Mr. Chairman.

Senator CAMPBELL. Thank you.

I would like to ask a few questions, too, perhaps first to Mr. Shuldiner.

Will most lenders initiate loans, home or otherwise, only if they have some sort of Federal guarantee?

Mr. SHULDINER. That has been our experience. Obviously, we have found very little private lending in and around the tribal areas, as Michael said, and we have repeatedly said, on the other hand, when Congress passed and we carried out section 184 loan guarantee programs, we're getting pretty good responses from the banks.

One of the things I didn't say in my testimony, just to point out the relationship in terms of the money here, we are spending approximately \$300 million a year to develop units of housing on tribal areas, and yet we are proposing a fairly modest sum to bring in private sector money so that we don't have to continue to provide such large amounts of Federal funds.

We think bringing in the private moneys will really help increase the number of homes being built and being bought, but at least in the absence of this legislation we have not seen private lending without Federal guarantees.

Senator CAMPBELL. One of the problems, just as a side bar—one of the problems we have in minority communities trying to get lenders to loan is what is called "redlining." You probably know that it is sort of an unwritten rule that banks often reject loans from minorities.

Have you gotten any feedback or view of that happening in Indian Country?

Mr. SHULDINER. Absolutely. Basically we believe that the absence of private funding is probably due to a combination of factors: the concept that the land is not owned by the home owner, it is held in trust or owned by the tribe; that there is no familiarity with proper appraisals in the sense that banks don't know how to evaluate the worth of property on the reservation. There is probably a concern on the part of the banks for the concept that they would have to come into tribal court to do foreclosures.

While those may be legitimate concerns, we believe there is—redlining is a nice way to say it—but we just believe there is a bias or outright discrimination against lending on tribal lands.

Senator CAMPBELL. Thank you.

It is also this committee's understanding that private underwriters such as Fannie Mae view this legislation as to be somewhat duplicative of the services that they already provide. Would you elaborate on that?

Mr. SHULDINER. It is true that they feel that way, or at least have so expressed it.

Senator CAMPBELL. They are wrong.

Mr. SHULDINER. Our concern is that, at least until very recently, although they had legislative capacity and funding capacity to make loans in tribal areas, they have not.

To Fannie Mae's credit, they have begun to have a certain level of activity of late in Indian Country, and that's a positive sign.

Let me say though that if, in fact, they carry out that which they can do, then under the NAFSO the service organization will only be offering technical assistance to tribal groups in the formation of CDFIs and accessing Fannie Mae, so there is nothing that they should fear if they do what they need to do or what the Native American community needs them to do.

If they don't do it, then this legislation provides a trigger that would allow the NAFSO to become a purchaser of secondary mortgages.

Senator CAMPBELL. In your statement you suggest that land status has been a primary barrier to private lending on reservations and that HUD's 184 home loan guarantee program will help to overcome the existing barriers of individual ownership. Although providing a Federal home loan guarantee is more attractive to institutional lenders, to date how many loans have been processed through the program that was authorized?

Mr. SHULDINER. At this point it is 84 loans covering 108 units, and \$1.5 million in credit.

Senator CAMPBELL. What has been the most common type?

Mr. SHULDINER. Single family homes. Dom is also telling me that so far this has been fairly geographically dispersed—northwest, southwest, Oklahoma—so we are getting good response.

Senator CAMPBELL. Mr. Stegman, you have provided a summary of the report to the committee, but do you have a date of when the final report will be released?

Mr. STEGMAN. We ought to be able to send a completed report within the month. It will be printed probably in about eight weeks. We will probably be able to provide for the committee a final report that goes to the printer probably in about three weeks.

Senator CAMPBELL. In your testimony you indicate that HUD has produced approximately 26 percent of all Indian households in tribal areas with 42 percent of those to low-income families and individuals, and, further, that 51 percent of the Native American households have incomes that are 80 percent or more of median income. Can you indicate to the committee what that translates to in numbers or potential market capacity?

Mr. STEGMAN. The question, Mr. Chairman, is how many families have above median income?

Senator CAMPBELL. Yes.

Mr. STEGMAN. If we are talking about a—let me see. We can get that for the committee. I'm not sure I have that here.

There are 45,000 families who are very low income with severe housing needs, but if we are talking about those above median income, I don't think I have the number because the 51 percent that you are talking about are those immediately surrounding the tribal area in the larger counties. I don't know if we have that. We'll provide that for the record, Mr. Chairman.

Senator CAMPBELL. Fine.

[Information is in Mr. Stegman's prepared statement which appears in appendix.]

Senator CAMPBELL. Senator Inouye, do you have any questions?

Senator INOUE. Thank you very much, Mr. Chairman.

I would like to join you and Chairman McCain in commending HUD for this measure and to indicate my support. However, my support is a bit conditional in the sense that I am quite surprised and unhappy that this bill does include Native Hawaiians.

If I may, I would like to ask a few questions relating to the housing needs of Native Hawaiians who are eligible to reside on trust lands.

Is it not true that these people face challenges that are very similar to those faced by American Indian and Alaska Natives—for example, lack of access to private financial housing development markets?

Mr. SHULDINER. Yes, sir.

Senator INOUE. Is it not also true that this group of Native Hawaiians who are eligible to reside on trust lands face a reluctance on the part of public housing financial sources to lend money for housing?

Mr. SHULDINER. Yes, sir.

Senator INOUE. Is it not also true that for these Native Hawaiians who are eligible to live on trust lands there is a critical shortage in housing? For example, do you agree with the findings of the most recent investigation, which shows that 42 percent of those eligible are still on the waiting list?

Mr. SHULDINER. Yes, Senator.

Senator INOUE. Is it not also true that as a result, like housing in Alaska Native villages and in reservations, the critical shortage results in severe conditions of overcrowding three, four, or five families in one house?

Mr. SHULDINER. Yes, sir.

Senator INOUE. Is it not also true that all three groups—Alaska Natives, American Indians, and Native Hawaiians—have felt the impact of a reduction in Federal support for the construction of housing?

Mr. SHULDINER. I would assume so.

Senator INOUE. In other words, as far as problems and challenges, there is very little to differentiate between Native American Indians, Alaska Natives, and Native Hawaiians; is that not correct?

Mr. SHULDINER. Yes, Senator.

Senator INOUE. Then would you object if an amendment is proposed to include Native Hawaiians?

Mr. SHULDINER. Would I object? No.

Senator INOUE. I am glad to hear that. Furthermore, is it not true that in the measure you do include a representative from the State of Hawaii—for example, to serve on advisory committees?

Mr. SHULDINER. Yes, sir.

Senator INOUE. Under those circumstances, you are giving us the green light, then?

Mr. SHULDINER. If I may, Senator, as I mentioned, this was a collaborative effort of a number of departments within the Administration. There were a lot of views on a lot of issues. Everybody had to compromise to come up with a bill that would have Administration-wide support.

As you probably recall, this effort took literally months of meetings and shifts and changes in how NAFSO would actually look.

I think that the product, with the exception of the item that you are discussing, came out stronger as a result of that collaboration, but, while there were certainly some who wanted to accommodate the Native Hawaiians, in order to have a consensus bill within the Administration, this item was not included.

Certainly it is within the province of Congress and this committee to make amendments to further refine and improve the legislation we proposed.



Senator INOUE. I thank you very much for recognizing the special problems that we have in Hawaii.

I have a question here, if I may, Mr. Chairman, on behalf of Senator Wellstone.

Under this measure, the financial services organization is designated to be regulated by the Office of Federal Housing Enterprise Oversight; is that correct?

Mr. SHULDINER. Yes, sir.

Senator INOUE. If that is the case, is this office being targeted for elimination by proposals now before Congress?

Mr. SHULDINER. I'm not aware of any such.

Mr. STEGMAN. No; not to our knowledge.

Mr. SHULDINER. This is the office that oversees—it is an independent overseer for Fannie Mae and Freddie Mac.

Mr. STEGMAN. It oversees the financial soundness of the GSEs of Fannie Mae and Freddie Mac, and it is not targeted.

Senator INOUE. So Senator Wellstone need not be concerned about—

Mr. STEGMAN. Not to our knowledge.

Mr. SHULDINER. Right.

Senator INOUE. Thank you very much.

Senator CAMPBELL. One last question.

In developing the rules and regulations to implement the 184 program, what is the role of the BIA in this process?

Mr. NESSI. In developing the rules and regulations, we had field BIA staff help us with developing procedures so that we can get title searches done quickly. They have been very helpful in the field in providing that assistance.

They also play a very large part in the actual processing of the loans.

Senator CAMPBELL. Okay. I thank you.

We'll go on with panel two: Michael Mail, Vice President of the Quinault Indian Nation; and John Sunchild, chairman of the Chipewa Cree Business Committee, Box Elder, MT.

Vice President Mail.

Mr. MAIL. If I may, Mr. Chairman, if it would be all right with the committee, could I defer to the tribal elder, John Sunchild, first?

Senator CAMPBELL. That's fine.

#### **STATEMENT OF JOHN SUNCHILD, SR., CHAIRMAN, CHIPPEWA CREE BUSINESS COMMITTEE, BOX ELDER, MT**

Mr. SUNCHILD. I appreciate that. Thank you.

[Remarks in Native tongue.]

Mr. SUNCHILD. Mr. Chairman and members of the Committee on Indian Affairs, it is an honor to appear before you regarding legislation which holds a great promise to benefit members of not only my tribe but Indians throughout Indian Country.

As you are aware, Mr. Chairman, the commission that was created to look into the housing situation documented many obstacles to the development of private housing in Indian Country.

It heard stories of what continued from reservation to reservation, as Senator Inouye alluded to here, of multiple families living

in one building, one household. It not only prevails on my reservation, but it prevails throughout Indian Country.

We are also aware that Indian housing or housing, in general, is a forever process. We house a certain number of people one year and twice that many are married and raising their own families the following year.

It behooves us to set things in motion, to set the mechanism to create more departments, more access to homes for these younger people, again being careful not to duplicate but to supplement, to reach out and to not only depend on HUD but others, Fannie Mae, Veterans, and, of course, private lending institutions.

In my tribe last year, under the auspices of HUD so-called "184 program," my tribe took the initiative in tackling the problem of private mortgage financing on the reservation. We conducted our own initiative at our own expense to provide a special workshop inviting all of these banking people from the banks and also the HUD people, tribal people, and Fannie Mae representatives, Housing Authority representatives of Montana. We met in the course of a day and a half, exploring the possibility or feasibility of privatizing mortgage on the reservation.

One of the stumbling blocks that came out of there was, at the time, creating housing on Federal trust lands. This has somewhat been relieved by a special waiver through the Veterans' Home Administration where that waiver has been established now for Indian veterans where they can secure home loans from the VA and erect and construct those on trust land. Also, this will open doors to FMHA on the same process.

Mr. Chairman, members of the committee, we welcome the creation of NAFSO because, as we see it, it creates affordable homes for Indian people.

Also, if I was to go beyond homes and talk about finance development and economic development on our reservation, in general, tribal councils are in dire need of assistance because we all know, when we talk about private homes, there are certain elements that are going to cause problems for these prospective home buyers under 436.

Private homes and HUD homes—the very vast difference I see is private homes are not necessarily covered for water and sewer. That usually goes along with a HUD home. Take the place of that.

I strongly see that there should be some sort of a guarantee to this 436 in terms of a supplement to guarantee that legislation. We're not necessarily asking for additional money from the Congress. We're talking about in terms of not only homes but to kick start economic development on the reservation. I'm talking about a bonding issue, which would put also private home securement for private individuals.

We are not necessarily asking for money under NAFSO or from Congress, because I feel that the mechanism is already there under the auspices of Indian Finance Act under the BIA.

With these types of things—because we create a home for Mike while he is gainfully employed, and 2 or 3 years down the line he is not employed any more. We have to have some kind of a guarantee, guaranteeing him so he does not lose that home.

Many, many times with many, many programs this scenario exists where it is about hope to an individual or an individual family, so we need the mechanism there for guarantees, and not only guarantees but also to lift certain restrictions that exist now prohibiting Indian people securing homes and the private individuals kick starting or supplementing their economic, private contracts.

I am going to leave off here. I'm ready for questions. But basically I support this legislation because, to me, it is a spin-off tying in with others—VA, FMHA. I'd like to tie in on those guarantees upon the BIA.

Also, I sense here, being just a new legislation to supplement existing legislation, I feel and hope I'm right that it is a coup on the part of the leadership of this legislation, 436. In the old days we'd say it is a good kill and, in the philosophy of sharing, I'll gladly endorse Senator Inouye's request that we share the benefits that will derive from 436 to Native Hawaiians.

With that, thank you.

[Prepared statement of Mr. Sunchild appears in appendix.]

Senator CAMPBELL. Michael.

#### **STATEMENT OF MICHAEL MAIL, VICE PRESIDENT, QUINULT INDIAN NATION, TAHOLAH, WA**

Mr. MAIL. Thank you, Mr. Chairman and members of the committee for inviting the Quinault Indian Nation to testify on S. 436, the Native American Financial Services Organization Act of 1995.

My name is Michael Mail, and I am Vice President of the Quinault Indian Nation. I also serve on the Business Development Standing Committee for our tribal council.

One of the main problem our business development and housing committees face is figuring out ways to access financial resources for on-reservation housing and business needs. Because of our interest, I am pleased to be asked to testify on this bill.

S. 436 is based on the findings and recommendations of the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing. It proposes to create a national organization to work with reservation-based programs, to educate local lending institutions, and to improve access to sources of funds for Indian housing and economic development needs.

It is gratifying to see the recommendations of an Indian task force taken seriously and to have the housing and economic development needs of our people addressed earnestly and thoughtfully by both the Administration and by Congress.

We would like to express our thanks to Secretary Henry Cisneros and his staff—in particular, Dom Nessi—for their advocacy and concern for Indian people and the needs of our communities. We also thank Senator Ben Nighthorse Campbell and the other sponsors for introducing this bill.

Tribal governments need help to identify cost-effective ways to improve access to conventional financial institutions and capital. Like most reservations, the housing situation at Quinault is critical. As a tribal leader, I know that without sufficient and adequate housing, our ability as tribal governments to bring about the changes we worked so hard for is much more difficult.

We want our educated and talented tribal members to bring their talents back to the reservation, yet today 67 percent of Quinault tribal members currently are not able to live on their own reservation, primarily because of housing shortages and the lack of employment opportunities.

The main employer is the tribal government. Other traditional employment, the fishing and timber industries, are in a severely depressed state due to poor conservation practices in the past and current ecosystem concerns.

We need to figure out ways to diversify our economy, as well as our housing. We cannot do either one without outside investment.

Since at least 1980, we have had a zero-percent vacancy rate for housing on the Quinault Indian Reservation. This has restricted the ability for residents to move within the reservation and has caused severe overcrowding in many households.

In addition, the shortage of housing on the reservation contributes to the already high demand for housing in the surrounding off-reservation communities. Although the economy is depressed in the entire area, the State of Washington has received a huge increase in new residents. As a result, individuals who work on reservation are forced to commute longer distances to find housing.

We have never had a true housing market on the Quinault Reservation. We do not have real estate agents showing homes to potential buyers because there are almost no homes for sale, and those who could purchase cannot get financing.

The mix of available housing is very limited. A full one-third of all the houses on the Quinault Reservation were built through one of the HUD low-income housing programs. There are no apartments or similar types of housing available for single people and new families at reasonable rents.

At the other end of the housing spectrum, there are virtually no upper-end homes available for purchase either. In fact, the best housing for miles around is HUD low-income units. Even if a family becomes financially sound, there is no housing for them to move into which would open up HUD units for others.

Most new privately-financed housing units are either mobile or modular homes because these are the only types of units our people could obtain financing for. Even though the materials used in these units have improved, they still have a very short useful life on the Quinault Reservation.

Primarily because we are located next to the Pacific Ocean and the rain forests, the salt air and high annual rainfall cause the metal used in the mobile units to rust and the pressed board used in the modular units to rot.

Even with the new HUD programs which are designed to overcome so many obstacles, much more needs to be done to educate and work for traditional financial institutions. For example, over the past 2 years, seven reservation residents have tried to get a HUD 184 loan to build a new home. Although the local bank was willing to work with these residents, answering the bank's questions about how to lend money in Indian Country took over 6 months.

After all this time, only one of the seven may soon get a loan. One other finally quit trying because the bank became confused by

the answers they were receiving from the local HUD office about whether the property qualified for a loan. The other five may be getting a new home in the future, but only because our housing authority was willing and able to use some of its funds to begin construction.

Once these people are finally approved for a 184 loan, they will then be able to use that money to pay back the housing authority. Eventually the goal will be accomplished, but funds that could be used for other projects will be tied up for an unnecessarily long period of time.

On the other hand, the residents will be able to move into their new homes a full year sooner than if they had waited for the bank to have all its questions answered about lending money in Indian Country.

Because S. 436 begins to address the problems we face with ill-informed local institutions and the corresponding lack of available mortgages, the Quinault Indian Nation is pleased to support this bill.

In my written testimony we included comments on the bill that we hope will be considered by the committee. In particular, we urge the committee to make sure that any national organization created by this effort gets resources to communities that need them and does not become another self-sustaining bureaucracy.

We appreciate the acknowledgment of the serious problem faced by reservation communities and the efforts of the Administration and this committee to find ways to overcome them. Thank you again for allowing me to testify.

[Prepared statement of Mr. Mail appears in appendix.]

Senator CAMPBELL. Thank you.

John, you mentioned the VA home loan program that we implemented a couple of years ago. There have only been about a dozen tribes nationwide so far that have taken advantage of that, but apparently your tribe has been one of them that has taken advantage of that; is that correct?

Mr. SUNCHILD. No, sir.

Senator CAMPBELL. You have not?

Mr. SUNCHILD. Have not.

Senator CAMPBELL. So you have not signed an MOU with the Veterans Administration to use that program? Why not?

Mr. SUNCHILD. The biggest thing it has done in Indian Country is that the applicants, the Indian people, the Indian veterans are now, if they are eligible for the home loan, they can erect that and construct that particular home on trust land. In order to accommodate that particular requirement, tribal councils were induced to structure their courts, to structure their ordinances to fit that particular legislation.

It is complicated after it comes under the HUD 184 proposition where, if I default, that house is not taken away by the VA but merely reverts back under the MOA between the HUD local housing authority and the tribal council where this particular mortgage reverts right back to the housing authority, giving it to another eligible veteran. That way that house remains on trust land.

Senator CAMPBELL. John, how many reservation families do you think would attempt to purchase or build their own home but have not been able to get a loan?

Mr. SUNCHILD. Right now, for example, there are nine in my tribal council.

Senator CAMPBELL. How many?

Mr. SUNCHILD. Nine. And under my staff, those people that are employed, I would venture that there would be 40 to 50 that would be eligible as of today if all of the restrictions were listed and all of the supplements were in place.

Right now I've got five people, five residents ready to move into five homes under the auspices of 184 HUD proposition.

Senator CAMPBELL. Have they made applications to local banks?

Mr. SUNCHILD. Yes; this is how these five people are moving in. But that has not been finalized as yet because the bankers are still hesitant about those restrictions or supplements of guarantees.

Senator CAMPBELL. Well, the workshop that you talked about—you mentioned Fannie Mae and HUD bankers and so on. Was that primarily for tribal members, or was that primarily for the institutions to convince them to make loans to tribal members?

Mr. SUNCHILD. It was primarily for the institutions that could make loans available to Indian clients.

If I might say so, we had a good reception from those people in terms of those—even those representatives from Fannie Mae. In fact, there are some bankers right now that are ready in our border town. All they are waiting for is that guarantee to either come from HUD or from the BIA.

Senator CAMPBELL. At a later time, when you get back to your home, would you provide the committee with the names and addresses of the banks to which the members applied so we can get their views on this NAFSO bill?

Mr. SUNCHILD. Sure. I'd be happy to do that.

Senator Inouye.

Senator INOUE. I thank you very much, Mr. Chairman.

Unfortunately, I cannot remain here for the rest of the morning because Chairman McCain and I will be having a special meeting on Indian gaming, which should be of interest to all of you.

I just wanted to take this opportunity to thank Chairman Sunchild, on behalf of the Native Hawaiians, for your very friendly and generous consideration of the needs of Native Hawaiians. I thank you very much, sir.

Mr. SUNCHILD. Thank you.

Senator INOUE. Thank you.

Senator CAMPBELL. Thanks, Senator Inouye.

Michael, you indicated that 67 percent of your members were not able to live on the reservation for various reasons. Has your tribe taken advantage of the VA home program?

Mr. MAIL. Not yet. Not currently, Senator.

Senator CAMPBELL. What is the tribe doing to try to assist members with housing?

Mr. MAIL. Well, of course, the 184 program is fairly new to Quinault. We are vigorously working on that. We have an active veterans' section now developing within the tribal structure, and we are looking into those types of things.

I'm not intimately familiar with housing issues at Quinault other than I read our housing report, but I know that we are looking at these.

We have infrastructure needs. We need to do some new zoning on our reservation.

Senator CAMPBELL. You've been working with the local lending institutions?

Mr. MAIL. Local lending institutions primarily is the biggest road block.

Senator CAMPBELL. So they are not active in helping at all?

Mr. MAIL. Not very active.

Senator CAMPBELL. Okay. I thank you both for your testimony. John, did you want to add something?

Mr. SUNCHILD. Can I make one request, Mr. Chairman?

Senator CAMPBELL. Sure. Please do.

Mr. SUNCHILD. We have to play by the rules pertaining to this testimony and timely submittal of testimonial papers, but after we had submitted ours, getting together again prior to leaving, we pondered on directions on how to expedite this particular process once it passes legislation and how it could become mobile immediately.

With that reason, we consulted with our consultants and they have sent us a memo of those suggestions that we have made to expedite this thing, and some suggestions how to fast track it.

Senator CAMPBELL. Thank you. I appreciate your concern.

Mr. SUNCHILD. I would like to introduce that into the record also.

Senator CAMPBELL. Without objection, that will be included in the record. I have to tell you that nothing happens immediately around here, but hopefully it will be expedited.

[Memo is in Mr. Sunchild's prepared statement which appears in appendix.]

Senator CAMPBELL. Thank you for your testimony.

The third panel will be: Jacqueline Johnson, Native American Housing Council; Robert Gauthier, Chairman of the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing and Executive Director of the Salish-Kootenai Housing Authority; and Joel Thompson, Executive Director of the Cherokee Nation Housing Authority.

Ms. Johnson, please start. As with the others, if you want to abbreviate your testimony, all of your written supporting material will be included in the record.

**STATEMENT OF JACQUELINE L. JOHNSON, CHAIRPERSON, NATIONAL AMERICAN INDIAN HOUSING COUNCIL, AND EXECUTIVE DIRECTOR, TLINGIT AND HAIDA INDIAN HOUSING AUTHORITY, ALASKA, ACCOMPANIED BY RUTH JAURE, EXECUTIVE DIRECTOR, NATIONAL AMERICAN INDIAN HOUSING COUNCIL, WASHINGTON, DC**

Ms. JOHNSON. Thank you very much, Senator.

Senator Campbell and members of this committee, my name is Jacqueline Johnson. My Tlingit name is [Native word]. I am the Chairperson of the National American Indian Housing Council. We are the only Native nonprofit association whose sole mission is to support the national network of 187 Indian housing authorities. We

support the organizations on the front line, implementing HUD programs as providers of over 75,000 units.

Although I sit here today representing National American Indian Housing Council, I must tell you my perspective on these issues has been shaped by a variety of experiences growing up in rural Alaska as a member of the Tlingit Tribe, managing HUD programs as executive director of Tlingit and Haida Regional Housing Authority in Juneau, and advocating for tribes as a former member of the American Indian, Alaska Native, and Native Hawaiian Commission.

It was this last role that first enabled me to work closely with you and your staff in the last session on the Native American Finance Services Organization legislation which, of course, is the main focus of my testimony today.

I actively participated in many discussions that were held during the development of the NAFSO proposal. I must say, Mr. Chairman, that your assistance with this bill and your commitment to Native Americans are a great source of strength for us in these new and uncertain times. I also want to express my appreciation to the Clinton Administration for collaborating with us and helping us hammer out the NAFSO legislation.

HUD's Secretary Cisneros, Joe Shuldiner, our Assistant Secretary for Public and Indian Housing, and Dom Nessi, the Director of Office of Native American Programs, all worked very hard helping us shape the provisions in this innovative proposal.

The NAFSO proposal emanated from recommendations of the Congressionally-chartered Commission of American Indian, Alaska Native, and Native Hawaiian Housing. I served for 3 years on that commission advocating insistently for targeting more technical and financial assistance to Native Alaskan communities to tackle our severe housing and infrastructure development needs.

Our original commission proposal was to create a Native American Finance Authority, or a NAFA, that could originate loans for Native housing and infrastructure development. We also wanted the NAFA to enter the secondary mortgage market as a purchaser of loans initiated by Indian housing authorities or other entities willing to lend to first-time borrowers in Native communities who have stable jobs but little money or down payment or no credit history to satisfy traditional lenders.

It is generally recognized that the housing market is a primary indicator of whether the U.S. economy is slowing toward a recession or building toward a boom. It is not true in Indian Country, however. There is so little financing for housing.

NAFSO is needed now to infuse capital into Native communities to spur economic growth. We must create and get off the ground financing structures so we can meet the needs in Native communities.

Those of us who struggled to work out the details of NAFSO proposal believe that public, private, Federal, tribal partnership arrangements can infuse capital into our Native communities. NAFSO can work because it is a solution with Native American roots. It will allow tribal governments to build self-governance and self-determination and learn how to develop and maintain their own financial services.



Funding for a NAFSO proposal must be viewed as an opportunity to prime the pump. Limited Federal funds will provide technical support to a lending community that will be investing in a new market. Without this technical support, lenders will be hard-pressed, as they have been in the past, to understand the peculiarities of the markets in the Native communities.

Unless and until existing primary and secondary lending markets both understand the needs and unique character of the Native American borrower and his or her community surroundings, the culture, the entire frontier of lending in Indian Country, cannot be explored and the market demands will remain unmet.

In short, NAFSO's purpose is to make the primary and secondary lending markets work in Indian Country. This will stimulate much-needed housing and economic development for Native Americans. Further, it will reduce reliance on Federal programs which have tended to be expensive and leave large segments of the targeted population without needed assistance.

To understand the critical need for NAFSO's proposals requires a candid discussion of what we mean. The Native American Commission wrote that the housing crisis was in Indian Country today. We used the word "crisis" deliberately. For too long, Federal decision-makers have tried general approaches to all public housing to apply to the unique housing conditions in Native American communities. Indian housing policies have often been designed for a uniform, anonymous Indian population.

Just as there are over 550 Federally-recognized tribes, there is an urgent need for specific, even self-styled policies to accommodate local needs and cultural differences.

Most land in tribal areas is held in trust for the tribes, as a whole, which prevents the development of private housing markets in many regions. Many Native American families can afford a mortgage but have not developed the appropriate credit history of had access to financing and technical assistance needed to realize their dream of home ownership.

NAIHC's strong preference is for prompt enactment of S. 436, as is, or in a nearly identical form. We recognize, however, that budget constraints may make ours an impossible dream. Therefore, we are fully prepared to work closely with Senator Campbell and this committee to fashion some alternative provisions.

One option might be to scale back some of the funding for NAFIs through the CDFI fund. Another option would be to rely solely on existing CDFI fund assistance level. Or it may be that completely different funding sources should be pursued for the Federal match in order to meet the NAFI's local match.

A narrower approach would be that NAFSO's demonstration project, whereby a limited amount of Federal funding would be available to a handful of demonstration projects to show a two-tiered technical assistance primary lending market infusion concept will work.

NAIHC would prefer, of course, to have the broader approach to help as many tribes and IHAs as soon as possible.

A third alternative might be to expand existing technical assistance mechanisms to help tribes and IHAs develop their capabilities

and target matching funds from the CDFI fund or other Federal sources directly to the NAFIs.

Our elders have been often fond of saying, "A long journey begins with a single step." Tribal leaders and Indian housing authorities stand ready to work with our Congressional leaders to enact legislation to provide decent, affordable housing for Native Americans.

Our goal in NAIHC is to greet the year 2000 having succeeded in bettering the lives of tribal members by literally building strong, safe roofs over their heads. I believe this goal can be achieved by allowing tribes and IHAs the opportunity to join other citizens in harnessing the power of the market and by promoting personal responsibility for their communities.

Mr. Chairman, NAFSO is needed to make this happen. The will to do it is already here.

Thank you. [Native word.]

[Prepared statement of Ms. Johnson appears in appendix.]

Senator CAMPBELL. Thank you.

Robert, before we go to you let me ask my colleague, Senator Simon, how tight his schedule is here.

#### STATEMENT OF HON. PAUL SIMON, U.S. SENATOR FROM ILLINOIS

Senator SIMON. Unfortunately, I've got some conflict. I just wanted to come in very briefly and listen for a little bit. I apologize to the witnesses for going in and out.

I think this concept is really sound. Indian reservations face special problems because you don't own the land, and so banks and savings and loans who follow the traditional pattern of financing home construction—it just doesn't work. That's why this thing is so important.

Not only will it improve housing, which is frequently miserable on reservations, it will provide jobs for people who need the jobs.

I have to say, frankly, Mr. Chairman, I don't understand it all yet. I don't understand the difference between the A stock and the B stock and all that, but the idea I think is absolutely sound. I want to encourage it, and I hope this committee will encourage it.

I thank you. Forgive me for interrupting. I will stay for a little while, but then I will have to get back to my other committee.

Senator CAMPBELL. I think this panel knows that Senator Simon is retiring. It is going to be a great loss to Indian Country back here. He has been a terrific supporter and champion of an awful lot of causes and a very strong voice in fairness for Indian people throughout this Nation. We are certainly going to miss him.

Senator SIMON. Thank you, Senator Campbell. And I'm pleased you are here in the Senate to stand up also.

Senator CAMPBELL. Robert?

#### STATEMENT OF ROBERT GAUTHIER, CHAIRMAN, NATIONAL COMMISSION ON AMERICAN INDIAN, ALASKA NATIVE, AND NATIVE HAWAIIAN HOUSING, AND EXECUTIVE DIRECTOR, SALISH-KOOTENAI HOUSING AUTHORITY, PABLO, MT

Mr. GAUTHIER. Thank you, Senator Simon.

I have also submitted my testimony, so I won't, in the interest of time, go through it all, sir. But I will just add to some of the comments that were made earlier.

As you know, the initiative that we are talking about today was started by this very Body, and I would like to acknowledge that effort and to thank you.

The work of the Commission was performed, I think, very carefully left no doubt of what was needed in Indian Country. Basically, we need credit. If we continue on the path we are going, it is going to cost \$7.5 billion to solve our Native housing problems. Well, as we all know, that's probably not very realistic.

If we bring a little bit of leverage into the picture, we could leverage one time what we have in Indian Country and solve the housing problem immediately. We simply do not have a sustainable credit market in Indian Country. We need that.

The lenders are taking note. We have more interest than ever before from Fannie Mae. The Federal Home Loan Bank last year dedicated some of their time to developing a Native lending guide, which was very well received—it is in big demand. It is in its third printing—which gives lenders across the country an opportunity. It is a primer, if you will, on what it is like to lend in Indian Country.

The Federal Reserve Bank of Kansas City produced a very, very nice lending supplement for their members. It is also widely circulated.

I think our problem is to get a local perspective on lending. You have a lot of willing lenders but, frankly, a lot of the reservation areas that need credit are out of anybody's lending area.

My friend, John Sunchild, lives at Rocky Boy, MT. There are no banks on his reservation. The closest bank is one-half hour away at Havre, so all of their hard-working tribal members get paid, run down to Havre, cash their checks and spend their money, and then come home to the reservation. We need to let them cash their checks locally, spend it in local businesses, and build their economies and their housing infrastructure. That's one perfect example of the changes that we need to make.

NAFSO, the legislation we are talking about today, will go a long way toward giving an initial body the opportunity to create local lending.

I would say we are definitely moving on the right track and we certainly appreciate all of your help. I remember two years ago the challenge that Senator Simon and Senator Kassebaum and Senator Inouye made to us. I have been appointed by Secretary Cisneros as the first Native American to the Federal Home Loan Bank Board in the Seattle branch. I have had the opportunity to learn a lot about what is now available to Indians by being involved in that organization. I think we need to do more of this.

Indian people, themselves, need the tools to solve the problem. Banks going to the reservations and other Native areas without a knowledge of the local customs, how business is done, are going to have a limited amount of success. Indian people, themselves, need to have the expertise and the training to do it.

Thank you very much.

[Prepared statement of Mr. Gauthier appears in appendix.]

Senator CAMPBELL. Joel, please proceed.

**STATEMENT OF JOEL R. THOMPSON, EXECUTIVE DIRECTOR,  
CHEROKEE NATION HOUSING AUTHORITY, TAHLEQUAH, OK**

Mr. THOMPSON. Thank you, Mr. Chairman.

You have my written testimony before you.

Mr. Chairman and members of the committee, thank you for this opportunity to appear before you today to provide testimony regarding S. 436, important legislation to improve the economic conditions and the supply of housing in Native communities by creating the Native American Financial Services Organization.

My name is Joel R. Thompson, and I am a member of the Cherokee Nation of Oklahoma located in 14 counties in northeastern Oklahoma with our capital at Tahlequah.

I am the executive director of the housing authority of the Cherokee Nation, with over 4,300 housing units under management in the low rent, section 8, and mutual help with ownership opportunity programs administered by the Department of Housing and Urban Development.

I also am currently serving as secretary of AMERIND Risk Management Corporation and was past vice chairman of the board of directors of this self-funded insurance pool which provides coverage for more than 70,000 housing units throughout Indian Country.

The housing authority of the Cherokee Nation was organized pursuant to a statute of the State of Oklahoma which permitted the creation of Indian housing authorities. However, our local governing body is the Cherokee Nation and members of our board of commissioners are appointed by our Principal Chief Wilma P. Mankiller. Each commissioner's appointment is then approved by our 15-member tribal council.

Chief Mankiller has shown leadership and dedication to providing decent, safe, and affordable housing and home ownership opportunities for our tribal members, now numbering over 160,000.

Many of the more than 80,000 tribal members residing within the 14 county jurisdictional area of the Cherokee Nation live at or below the poverty level and in conditions considerably more severe than those of the non-Indian populations.

In more than 25,000 homes, Cherokee is spoken as a first language, a testament to a proud people whose culture and language are of paramount importance, in spite of their living conditions.

The housing authority of the Cherokee Nation has seen dramatic growth over the last 8 years. Our annual budget has grown from \$8 million to \$30 million and our work force has increased from 65 to 250 employees.

In 1990, the housing authority accomplished a first: we completely paid off our obligation under the old mutual help program, thereby assisting 750 families in the achievement of home ownership.

Chief Mankiller presented the HUD Assistant Secretary for Public and Indian Housing with a check for more than \$880,000. This advance payment saved the Federal Government an estimated \$4 million. At that time no housing authority, public or Indian, had ever accomplished such a feat, but we did. This was only possible with the efficient management of the housing authority and the desire of the families to achieve their dream of owning their homes.

Since that date, more than 400 additional housing units have been developed, at the average rate of one every 3 days, with Indian contractors, craftsmen, and material suppliers leading the way. These homes were stick built as opposed to modular. Believe me, this is no easy feat.

We have been and still are good stewards of the public's money. Our tenants' accounts receivable for the low rent program seldom exceed 2 percent, and our mutual help average is less than 6.5 percent. We believe in hard work and take pride in a job well done.

Chief Mankiller has long been dedicated to improving the housing conditions of Native people and convincing others that Native people can accomplish great things if given the opportunity. Knowing of her dedication, this committee appointed her to serve on the National Commission for Native American, Alaska Native, and Native Hawaiian Housing.

I was fortunate to work closely with her and the other members of the Commission on their supplemental report and to serve on the working committee that developed the Native American Finance Authority proposal, the forerunner of the NAFSO initiative.

The Commission identified many barriers to providing adequate housing for Native people, but the most profound was access to credit through local lenders.

While there are nearly 850,000 American Indians, Alaska Natives, and Native Hawaiians who live on or near their traditional homelands, only two commercial banks or thrifts were identified in Indian Country. Throughout Indian Country, HUD is the predominant agency making available funds and units for Indian housing. Nearly 44 out of 100 are HUD units, compared to 3 out of 100 units provided in the rest of America.

These numbers underscore the dependency of Native people on publicly assisted housing programs. These statistics also illustrate the need for an alternative approach to the financing of housing units that would combine local investment with secondary mortgage market access. The NAFSO proposal offers such an approach.

S. 436, by establishing NAFSO, would provide technical assistance to Native American communities to create Native American financial institutions. It would also authorize the NAFSO to provide much-needed secondary mortgage market support and access.

NAFIs, as private enterprises, would be able to combine, coordinate, and leverage assistance now available in programs administered by HUD, Bureau of Indian Affairs, and Farmers Home Administration. This will expand housing options for Native families and begin to address the overwhelming need of 70,000 to 100,000 new or rehabilitated housing units.

Much thought was given by the working group of Administration officials and National Housing Commission members to the most efficient and effective way to target technical and financial assistance to meet Native communities' needs for housing, infrastructure, and economic development.

The working group decided to tie in to the already-enacted Community Developing Banking and Financial Institutions Act. The NAFSO bill, therefore, makes CDFI fund moneys available for Federal match by approved application from a Native American financial institution, or NAFI. Then the NAFI would be able to leverage

the CDFI funds on a dollar-for-dollar basis. It is essential to encourage local investment to established NAFIs by providing public and private sector resources.

An analysis of the 1990 census provides a clear picture of how passage of NAFSO could address the difficulty of Native Americans in obtaining mortgages.

As of 1990, 51.4 percent of Native Americans with homes on reservations, trust lands, or allotted lands owned them without a mortgage. These homes are generally in poor condition and are overcrowded. There is no mortgage for many of several reasons. First, homeowners have had no access to mortgage credit. Second, restrictions against alienation may prevent a lender from repossessing the home in the event of loan default, therefore the owners simply have built whatever could be afforded so as to put a roof over their families heads. Otherwise, the alternative would be to wait interminably on a long waiting list for Federal housing assistance.

In this country there are 795,751 households in which either a Native American or Alaska Native is identified as head of household.

Senator Campbell, you asked for this number a few minutes ago. Of this number, 448,292, or 56.3 percent, own their own home. Some 226,984—which I believe is the number you were looking for, Senator Campbell—or 59.6 percent have incomes greater than 80 percent of median income. These are the people who would have access to private financing to improve the impoverished conditions of their homes if private financing were available to them.

They have the need and the income to pay. What they lack are the financial services traditionally associated with primary lending institutions which most Americans take for granted.

NAFSO will provide through NAFI the financing mechanisms needed to bring these homes up to date, provide essential amenities such as plumbing, and ease overcrowding.

The current version of NAFSO identifies IHAs as eligible lenders or eligible to become NAFIs. The CDFI Act's definitions applicable to S. 436, however, provide that an entity eligible for CDFI funds assistance cannot be a State agency.

Since IHAs are organized under the laws of the State — some IHAs—and are frequently referred to as an agency of the State by courts within their jurisdictional service area, such IHAs could not be eligible for CDFI fund assistance.

To avoid the necessity of seeking any sort of declaratory relief, subsequent to passage of this bill we recommend a technical correction to permit IHAs organized under State law to be eligible to lend and to accept CDFI fund assistance. This minor change is both prudent and within the intentions of the framers of the NAFSO legislation.

Furthermore, it will allow one or more IHAs in Oklahoma, for example, to pool some of their resources to establish a NAFI with a local match for a Federal match from the CDFI fund.

NAFSO is not dependent on the CDFI fund for success, Senator Campbell. Although NAFSO would be enhanced with the leveraging potential of the CDFI fund, NAFSO is not necessarily dependent on it. We are opposed to any reduction or elimination of

the CDFI fund, but that would not render NAFSO ineffective. NAFSO provides great opportunity for the private sector to enter into a market which is in great need of financial services but which, to date, has been largely ignored. A mechanism would still exist to establish financial institutions that are not available to Native Americans now.

Primary lending in Indian Country is needed, it is desirable, and it is worthwhile. I encourage you to support this legislation and to move for its passage.

Thank you very much.

[Prepared statement of Mr. Thompson appears in appendix.]

Senator CAMPBELL. Well, I think S. 436 has broad support, but I am a little bit concerned that there has been such limited participation in the legislation we have passed to help Indian veterans get loans through the VA system.

I would ask all of you, as tribal members, if your tribes participated in that VA loan program for veterans? Does the Cherokee?

Mr. THOMPSON. Yes; we do, Senator Campbell. And it seems the critical obstacle of that is that it is direct lending from VA and the loan underwriting requirements are very stringent. For a lot of veterans, especially those that are veterans of the Vietnam era who came back and had trouble adapting back to their homes, had trouble with jobs, and then got into credit problems, that all reflects negatively on their applications for assistance under that program and, consequently, the loan underwriting requirements that VA has are sometimes too stringent.

Senator CAMPBELL. I see. Jacqueline, maybe you could tell me from the standpoint of your tribal group but also your professional job with the Indian Housing Council.

Ms. JOHNSON. From my tribal group, we have even hired someone to coordinate the services and try to be able to make that. We've identified all the veterans within our tribe. However, we have not found any eligible applicants to meet that criteria.

From a national perspective, I believe that there is very limited participation at this time. Part of the reason, I believe, for that limited participation as well as we know we are getting started with the loan guarantee program in the same concert, is the basic financial understanding of going and getting a loan or budgeting concepts, financial, basic understanding of our tribal members is very limited. Part of that is because we have never had to deal with that kind of an institution, and so things about putting together the proper paperwork, credit history, creditworthiness are all foreign concepts and are all very difficult for people to even want to approach them and they kind of stay away from it.

It is really hard to entice them to get them to the next level. That's one of the reasons why I believe the NAFSO concept is so important, because it is going to get our tribal leaders that education and knowledge and then we can strengthen our nation.

Mr. GAUTHIER. I think the intent of the native direct loan program through the VA was a wonderful one. It was supposed to serve 800 veterans. In reality, very few of the tribes—particularly those on restrictive lands—have been able to get an MOU signed and approved by the VA.

I know Joel in Oklahoma has had an easier time because they have less trust land and fewer of the restricted land issues. The MOU that they asked our tribal council to sign was finally signed and approved by the BIA. We sent it to the VA for approval nine months ago, and we still have no gotten an executed copy back. I have 22 veterans who we have prequalified and are waiting.

For a while interest rates were at 6 percent. They were very attractive. Then the Veterans Administration chose to have them mirror the guaranteed rate, which went to 9 percent. For a while I think that hurt the program. Now they are down to 8 percent. They are getting affordable again.

If we could get some help from the VA to expedite the MOU process, I think the program still has a place.

If I could, Senator, I wanted to make one other comment.

Senator Inouye expressed his unhappiness that the NAFSO proposal did not include language. Including the Hawaiians I wanted to stress that the National Commission very carefully—which I chaired and Ms. Johnson served on—was careful to include the Native Hawaiians that needed financial assistance on trust lands in every single one of the recommendations that we made, as well as some specific recommendations that we made, and we were disappointed to see them left out of the NAFSO proposal, and I think I can—in spite of the fact the Commission is no longer operating, I think I can safely say it is our consensus and it was voted on by the National American Indian Housing Council to support financial assistance and credit opportunities for Native Hawaiians. Their problems are very similar to ours.

Senator CAMPBELL. I think Senator Inouye would be happy to hear that. Thank you.

Senator Simon, do you have any questions?

Senator SIMON. Yes; and maybe I should address this to you, Mr. Chairman.

The difference in the class A stock and the class B stock I assume is to make sure that we keep American Indian control of the entity, but it does not—for example, you mentioned Fannie Mae. I think we ought to get Fannie Mae to buy \$5 million worth of stock. I think we—

Senator CAMPBELL. I think that's a great idea.

Senator SIMON [continuing]. Ought to be encouraging.

Senator CAMPBELL. Why not \$10 million?

Senator SIMON. I'm for whatever is a sensible figure that they are willing to go to, but I think this ought to be the base for expanding, and I hope that the class A and class B stock won't be—I hope there won't be fear on the part of people that you may lose control.

The reality is on most corporations if you own 5 or 6 or 7 percent of the stock you can control the corporation. That's not true of very small corporations.

But I guess my only word of admonition to whoever is involved is: get all the money you can get in terms of stock investment. Most people are not going to want to come in and run. They want to make sure their money is soundly invested and you want to make sure it is soundly invested.

Senator CAMPBELL. Sure.



Mr. GAUTHIER. I think that's been a key component of whatever plan we end up with. We have to have a sustainable plan. We want a plan that is driven by market forces, that makes sense. Frankly, we have a million people without credit services. To me that seems like a tremendous opportunity. It is hard for me to understand why more banks haven't done a better job of coming in and learning how to do business.

There was a quote in this brochure I mentioned earlier from Mark Girbaud, who is an attorney and is very active in the Native economic development efforts. He says, "What is frustrating is the reaction of some leaders to the idea of development in Indian Country. They'll take time to learn how to do business in Japan or Eastern Europe, but they don't want to take the time to understand how to business in Indian Country." We've been asking that question. Where are these guys?

They haven't been there, so we want to do it ourselves, and this will help us do it.

Senator SIMON. There is one difference, and that is per capita income in Japan is higher than per capita income on the Indian reservations. It is like—was it Dillinger who said, "Why do you rob banks? That's where the money is."

Mr. GAUTHIER. That's true.

Senator SIMON. People go where the money is.

Mr. GAUTHIER. I need to say, Senator Simon, that there will be \$6 billion of income on Indian reservations this year. That's \$6 billion, as the census data. That's not exactly chicken feed.

Senator SIMON. No; and there is no question this can pay off.

There is a good example. The South Shore Bank in Chicago, which you may or may not have heard of, moved into a very depressed area with some similarities. Obviously, there are many differences in urban and rural situation of the reservation. But they make money and they are helping that community. That's what has to happen here.

I commend you, Senator Campbell, for your leadership. I think this idea is sound. I want to help in any way I can.

I apologize for ducking out again.

Senator CAMPBELL. That's all right.

Ms. JOHNSON. May I?

Senator CAMPBELL. Go ahead.

Ms. JOHNSON. I just wanted to make one little comment, and that was in support of John Sunchild's testimony and three of the options.

Things that the Commission had talked about before—that was the assistance of the bond underwriting option. Also, we recommended that the NAFSO be authorized to get started right away. That was an important element to us. And also, in support of Senator Inouye, the National Indian Housing Council supports the Native Hawaiians' issue, too. I wanted to make those three points clear.

Senator CAMPBELL. In your written testimony you did mention, though, a possible demonstration project as an alternative if we couldn't get this implemented right away. What would you suggest?

Ms. JOHNSON. Actually, what happened was at the Commission level we were feeling very frustrated by the Administration's slow

movement because we felt very empowered and wanted to get going, and so we had even discussed creating NAFSO on our own privately, but then the problem was we really needed the technical assistance money and we really had a hard time coming up with some mechanism to do that.

So even, for example, in my own region I am creating a CDFI, but technically I'm not capable of doing that. I'm having a difficult time with that.

So what I think is if we could get and create a couple of these NAFIs or NAFSOs, we could also entice maybe some of the other gaming tribes and other tribes to invest in this, or be able to look at the model and see it really does happen, because unfortunately one of the things we have to do is convince our own Indian people.

I have been working with the Native corporations in Alaska and have gotten them to consider helping me and assisting me to putting this together, but most people on the boards of those Native corporations are just like me, and that means that we have very little financial understanding and wherewithal.

This is all new territory for us and we need those models.

Senator CAMPBELL. Has the BIA been at all active or supportive in the efforts of getting lending institutions involved?

Ms. JOHNSON. Unfortunately, BIA was a part of this process. They didn't take a very active role.

One of the problems that we are having with section 184 and perhaps other things is Fannie Mae is trying to propose a model lease ordinance or a model mechanism for BIA approval of trust lands. That has been one of the problems with us getting loans closed or being able to deal with that.

I did approach Ada Deer about that yesterday and will be setting up a meeting with her on how we can expedite the process. I thought perhaps maybe if it came from Native community that BIA might be more interested in trying to resolve that problem than maybe having Fannie Mae being the approacher of the model lease ordinance.

Senator CAMPBELL. I appreciate your testimony.

I have no further questions, but I would tell everyone who testified and who is willing to listen that the committee record will be open for two weeks. If you have additional information or additional testimony you would like to submit, you have a couple of weeks to do it.

I appreciate your being here.

This hearing is concluded.

[Whereupon, at 11:08 a.m., the committee was adjourned, to reconvene at the call of the Chair.]

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## APPENDIX

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### ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

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PREPARED STATEMENT OF HON. BEN NIGHTHORSE CAMPBELL. U.S. SENATOR FROM COLORADO

Good morning. The committee will now come to order.

On behalf of the committee, I would like to welcome all of you here this morning and extend a special welcome to each of the witnesses who will be providing testimony today. The committee recognizes that many of you have traveled great distances to be here and we greatly appreciate your time, effort, and commitment in assisting the committee in further developing S. 436.

The purpose of this morning's hearing is to receive testimony on Senate bill 436: The Native American Financial Services organization Act; legislation that I introduced on February 16, that also has the cosponsorship of the distinguished Chairman Senator McCain, Vice Chairman Inouye and Senator Daschle.

Very simply S. 436 is intended to improve the conditions and supply of housing in Native American communities by further developing the financial infrastructure for commercial financing opportunities by and for Indian communities. Realizing the great housing needs within most all Indian communities this legislation is intended to supplement the efforts of existing organizations, not duplicate, the functions of any other government-sponsored enterprise.

S. 436 would establish a limited, Federally-chartered corporation to be known as the Native American Financial Services Organization, or NAFSO. A Federal grant would capitalize the federally chartered, for profit Financial Services Organization through a cooperative agreement. Under the agreement the NAFSO would be authorized to:

Establish and organize Native American Financial Institutions. (institutions that meet criteria defined under the CDFI fund (P.L. 103-325)).

Provide financial expertise and technical assistance to such institutions on underwriting, securing, servicing and selling mortgage and small commercial loans.

And importantly to work with the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and other organizations involved in the secondary market for home mortgage instruments in identifying and eliminating barriers to the purchase of Native American mortgage loans originated by Native American Financial Institutions and other lenders.

The Federal NAFSO charter would terminate within 10 years, after which its activities would be merged into a private corporation. The bill limits NAFSO assets to \$20 million and it is anticipated that, upon privatization, NAFSO will grow beyond this limit.

In short, the Native American Financial Services Organization would help provide financial independence to the Native American community and would begin to address the extreme housing deficiencies by working to attract private capital into the Indian housing market.

The members of this committee need not be reminded of the housing conditions prevalent in most Indian reservation communities. Data released by the Bureau of Census earlier this year reveal that 18% of all American Indian households on reservations are "severely crowded," while the comparable figure for non-Indians is 2%. Or further, 33% of all Reservation households are considered "crowded" to a comparative national average of 5%. And further, according to a study completed by the Commission on American Indian, Alaska Native and Native Hawaiian Housing the total backlog of needed homes approaches 5,500 or an estimated cost of \$460 million.

As we will hear in testimony today from officials of the Department of Housing and Urban Development the current housing problems in Indian country will continue if innovative housing strategies are not developed.

I think it is realistic to say that under our current fiscal climate, Congress will probably not be able to appropriate the necessary funding to meet such a large backlog of basic housing needs.

It is for this very reason that I believe the Native American Financial Services Organization Act is a viable solution to the existing housing crisis in our Indian reservation communities.

While I understand this legislation will undoubtedly undergo revisions to accommodate both tribal concerns and institutional concerns, I certainly look forward to the testimony that will be provided by our witnesses today.

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PREPARED STATEMENT OF JOSEPH SHULDINER, ASSISTANT SECRETARY, OFFICE OF PUBLIC AND INDIAN HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Mr. Chairman and Members of this Committee, thank you for giving HUD's Office of Public and Indian Housing [PIH] the opportunity to present information on the Native American Financial Services Organization.

The Urban Institute study on Native American Housing Needs, summarized at this hearing by Assistant Secretary Stegman, provides concrete and current evidence of the housing crisis in Indian country. In evaluating the housing problems and needs of American Indians and Alaska Natives, the study tells us that the problems and needs of Native Americans are greater in number, more severe, and more diverse than those of non-Indians in all parts of America. The study further reveals that Federal programs play a large role in housing in many tribal areas, and while most programs are well managed, there are important variations in local performance and capacity in program delivery. And, perhaps most importantly, the study indicates that Federal dollars cannot meet all the housing and related needs in Indian Country, but Federal policy can assist in bringing private dollars to Indian Country to foster homeownership, economic development and ultimately financial independence.

I would like to take this opportunity to emphasize a key point: federally-sponsored insurance programs and loan guarantees designed to encourage private market participation in Native American economies cannot in and of themselves solve the grave financial problems facing the communities. The cultural, social, and logistical barriers to private market participation are simply too great. The Native American Financial Services Organization legislation, however, could be an important step toward removing those barriers.

Historically, financing for most of the housing and related infrastructure in Indian country has been provided through government programs. These federal programs, however, do not fully meet the needs of Native American communities and private financing has not been available. Despite the availability of several loan guarantee and insurance programs, private financing has not been a reality for Native Americans living on or near restricted land.

Land status has been a primary barrier to private lending on Indian reservations and in other Indian areas because of the restrictions on alienation of the land. Because most land is held in trust by the Bureau of Indian Affairs [BIA] on behalf of a tribe or an individual, a direct lien cannot be placed on the property to provide the security required by a private lending institution. While this Department's Section 184 Indian Loan Guarantee program will help to overcome this obstruction for individual home buyers by providing guarantees on loans secured by a leasehold interest in the property, NAFSO would expand the same vehicle to provide opportunities for business and tribal government borrowers.

Tribal governments have had to rely on Federal Government grant and loan programs to build streets and roads; to provide water and sewer and other utilities; and to provide basic service facilities such as fire and emergency equipment. There

has been no financial institution or source of private capital from which these governments could borrow to finance these facilities.

While there has always been some need for "conventional" financing in the Native American community, the need is continually increasing. There is a newly emerging middle class of Native Americans who want to realize "the American dream of home ownership" on their Native lands. In addition, tribal members and tribal governments are becoming more sophisticated and want to become involved in larger and broader reaching entrepreneurial activities. Currently, there is virtually no financing available for home ownership or economic development.

Among other real or perceived barriers to lending in Indian Country is a lack of familiarity with tribal law on the part of lenders. As Native American businesses, the community lending institutions created through legislation would have broad knowledge and experience with tribal laws and customs.

Based initially upon the findings of the Commission on American Indian, Alaska Native and Native Hawaiian Housing, the Native American Financial Services Organization Act of 1995 is an attempt to address the need for private financing of homeownership and economic development on and near reservation lands.

While most federally-sponsored housing and related programs target low- and moderate-income recipients, the housing that would be developed as a result of financing through the proposed legislation would be directed more toward moderate to middle income Native Americans. Moreover, the addition of a financial "industry" on or near a reservation, would benefit the overall economic growth of the entire community.

This legislation would establish a limited government chartered corporation to be known as the Native American Financial Services Organization ("NAFSO"). A federal grant would capitalize the federally-chartered, for-profit NAFSO, whose charter would cease to exist upon a designated date, at which time it would become a private corporation. It is anticipated that tribal contributions would assist the NAFSO in becoming self-sufficient over time.

The governance of the NAFSO would be vested in a Board of Directors that would be representative of the Native American community. Shares would be equitably distributed among federally-recognized tribes; the Board could elect to distribute additional shares on an investment basis. Several members of the initial Board would be appointed by the President. The Board would have to establish an Advisory Council, consisting of representatives from each of the 12 districts established by the BIA, as well as Hawaii.

It is the purpose of this Act—

(1) to help serve the mortgage and other lending needs of Native Americans by providing technical assistance to establish and organize Native American community lending institutions that would be called Native American Financial Institutions (NAFIs); NAFIs would be any type of financial institution, including community banks, credit unions and savings banks, and therefore could provide a wide range of financial services;

(2) to develop and provide financial expertise and technical assistance to NAFIs, including methods of underwriting, securing, servicing, packaging, and selling mortgage and small commercial and consumer loans;

(3) to develop and provide specialized technical assistance on how to overcome barriers to primary mortgage lending on Native American lands, including issues related to trust lands, discrimination, and inapplicability of standard underwriting criteria;

(4) to assist in providing mortgage underwriting assistance (but not originate loans) under contract to NAFIs; and

(5) to work with Fannie Mae and Freddie Mac, and other participants in the secondary market for residential mortgages in identifying and eliminating barriers to the purchase of Native American loans.

By establishing new purchase goals for the government-sponsored housing enterprises, Fannie Mae and Freddie Mac, the Act would provide the incentive necessary for these financial institutions to increase their roles in Indian Country. The consequence of failure to meet the established combined goal would be that NAFSO could then purchase and deal in residential mortgage loans originated by NAFIs.

The Office of Federal Housing Enterprise Oversight would regulate matters pertaining to the safety and soundness of the NAFSO and the Department of Housing and Urban Development would have general regulatory authority.

In closing, I would like to say that if you looked at the overall financial industry you would find various arms that perform each of the functions that would be performed by the NAFSO and also the community based NAFIs. However, the services provided by NAFSO and the NAFIs will be neither redundant nor competitive with those institutions because few if any of those institutions are held or operated pri-

marily by Native Americans or do business primarily in Indian Country. Through the creation of Native American Financial Institutions (NAFIs), this bill would provide financial independence to the Native American community that it has never enjoyed before. It provides the structure to marry private financial resources with federal and tribal resources in a way that benefits all parties. The creation of the NAFSO would have the ripple effect of opening avenues to economic development in the housing and financial arenas which have not been available heretofore.

I would be happy to answer any questions that you may have at this time.

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PREPARED STATEMENT OF MICHAEL MAIL, VICE PRESIDENT QUINAUT INDIAN NATION

Thank you, Mr. Chairman and members of the Committee, for inviting the Quinault Indian Nation to testify on S. 436, the "Native American Financial Services Organization Act of 1995." I am Michael Mail, Vice President of the Quinault Nation. I also serve on the Business Development Standing Committee of our Tribal Council and have a great interest in the issue of access to financial services in Indian Country.

The Quinault Nation appreciates the opportunity to comment on this measure, particularly in light of the fact that our past President, Joe DeLaCruz, participated actively as a member of the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing. The genesis for S. 436 can be found in the findings and recommendations of the Commission's Report. It is gratifying for once to see the recommendations of a Native-comprised Task Force taken seriously and to have the housing and economic development needs of our people addressed earnestly and thoughtfully by both the Administration and by Congress. We would like to express our thanks to Secretary Henry Cisneros and his staff, in particular Dom Nessi, for their advocacy and concern for Indian people and our community needs.

We also appreciate that Senator Nighthorse Campbell and the other sponsors of the bill recognize that this legislation is not going to solve all of the financing problems encountered by Indian Country. Some initial steps must be taken, however, to identify cost-effective and creative approaches to increase access to conventional financial institutions and capital. In addition, solutions to the problem of tribal financial resources not circulating within the reservation boundaries but instead being spent and invested off-reservation must also be identified. This bill represents some first steps toward the solutions.

A principal focus of this bill is to address the so called "middle-class" Indian housing needs. It is potentially part of a solution, however, for more than just this segment of the population's needs. The inability of reservation residents with sufficient income and credit history to obtain conventional financing for existing or new housing exacerbates the general problem of lack of housing on the reservation as well as the inability to foster self-sustaining and fiscally independent communities.

Creating mechanisms which would allow more and varied housing to be purchased and built on-reservation opens up existing HUD units for those who have been on waiting lists for years. In addition, more affluent tribal members who wish to live on-reservation but are not able to due to lack of housing would then be able to move back into our community. The combination of appropriate and sufficient housing opportunities coupled with attracting a larger number of tribal members with varied backgrounds and experiences should help break the cycles of poverty and poor self-image, improve the economic, social and cultural environment for all reservation residents and lead to stronger, healthier communities.

Sixty-seven percent (67%) of Quinault tribal members currently are not able to live on their own reservation, primarily because of housing shortages and the lack of employment opportunities. The main employer is the tribal government. Other traditional employment—the fishing and timber industries—are in a severely depressed state due to conservation and ecosystem concerns.

Since at least 1980, the zero percent (0%) vacancy rate for housing on the Quinault Reservation has restricted mobility and has caused severe over-crowding in many households. The shortage of housing on-reservation contributes to the already high demand for housing in the surrounding off-reservation communities, a shortage which has been exacerbated by an enormous influx of new residents. As a result, individuals who work on-reservation are forced to commute longer distances between work and home—in some instances, tribal employees commute over 100 miles each way, each day.

The housing mix on-reservation is very limited. A full one-third (1/3) of all the homes on the Quinault Reservation were built through one of the HUD low income housing programs. There are no apartments or similar types of housing available

for single people and new families at reasonable rents. At the other end of the housing spectrum, there are virtually no "upper-end" homes available for purchase either. Consequently, even if a family becomes financially sound, there is no housing for them to move up to, which would open up HUD units for others.

Most new privately financed housing units are either mobile or modular homes because those are the only type of units for which financing could be obtained. Even though the materials used in these units have improved, they nevertheless have a very short useful life on the Quinault Reservation because of our geographic location—with the salt air and high annual rainfall, the metal used in the mobile units rusts and the press board used in the modular units rots.

One consequence of the limited housing mix and lack of access to private financing is that houses do not appreciate on the reservation. There has not ever been a "normal" functioning housing market because until recently there was no way to secure private financing on trust property. Not only has the lack of a housing market created a disincentive to potential new homeowners, those that do own their homes have no market-based incentives to maintain and upgrade their homes. Without a functioning housing market, homeowners do not have an avenue for putting their homes on the market and see no way to get a return on their investment.

In the past, financial institutions have been reluctant to provide financing on-reservation. These institutions tell us that lending and investment in Indian communities often require small loans with flexible terms, non-standard credit criteria, and intensive support services which often results in higher administrative costs and lower rates of return. In addition, the uncertainty about how to overcome perceived legal obstacles to lending—such as a lender's ability to foreclose or enforce a judgment in tribal courts—and the misinformation that often gets disseminated about lending in Indian Country, has proven overwhelming in the past.

Tribal communities often require more than simply money to borrow, which is difficult enough to access. In addition, tribal communities need technical assistance, formation of partnerships with community groups and government agencies, flexible credit policies, accessible secondary markets, the ability to provide financial services themselves and, perhaps most importantly, a demonstrated commitment from financial institutions to long-term involvement with tribal communities in order to achieve trust and a mutually beneficial business environment.

Even with the advent of the new HUD programs designed to overcome some of the obstacles identified in the past, much more needs to be done to educate and work with traditional financial institutions. For example, over the past 2 years seven reservation residents have tried to utilize HUD's section 184 loan guarantee program. Although the local financial institution was very willing to work with these residents, getting questions answered consumed over 6 months and only one of the residents appears to be on the verge of closing on a loan. One other finally quit trying to qualify because of mixed signals from the HUD local office and the other five are proceeding under a hybrid approach—Quinault Housing Authority funds will be used to begin construction and once the applicants finish pre-qualification, they will then be able to use the section 184 loans to pay back the Housing Authority. The goal will be accomplished, hopefully, but funds that could be used otherwise will be tied up for an unnecessarily long period of time. The residents, however, will move in to their new homes a full year sooner than if they had waited for the local institutions to become familiar with lending practices and requirements in Indian Country.

Although it is beyond the scope of this bill, we would like to point out another barrier to creating on-reservation housing markets. Unlike States and their political subdivisions, tribes cannot issue tax-exempt bonds under Section 143 of the Internal Revenue Code and use the proceeds to make single-family home mortgages. Because the interest rate on tax-exempt borrowing is relatively low, the proceeds of such borrowing can often be used to finance mortgages at below-market rates. The mortgage repayments are used to repay the tax-exempt bonds (the mortgages bear interest at a rate a bit higher than the bond rate, subject to federal limits, to provide for some cushion and to cover financing costs). This is a major housing financing tool for states.

Tribal governments can issue tax exempt bonds under Section 7871 of the Code for "essential governmental functions," subject to all of the rules that govern the issuance of tax-exempt debt by states and their political subdivisions. However, under section 7871(c)(2), bonds issued by a tribal government cannot be tax-exempt if they are "private activity bonds." Mortgage bonds are private activity bonds under the code because they are bonds issued to finance loans to someone other than the government—the homeowners. As such, they cannot be issued tax-exempt by tribal governments despite the fact that States can issue the same type of bonds. There may be reasons for the "no-private activity bond" rule in Section 7871(c), but here it cuts

rather deeply and prevents tribal government from assisting tribal members in financing housing—a critical need on nearly all reservations. If 7871(c)(2) could be amended to say permit this form of private activity bond “qualified mortgage bonds”—to be issued tax-exempt, it would be a major boon.

The stated purpose of the Native American Financial Services Organization Act (NAFSO) is to begin to address the mortgage, economic development and lending needs in Indian Country by helping to establish lending institutions in Indian communities and to provide financial expertise and technical assistance to overcome obstacles to lending in Indian Country. Other purposes include working with Native American Financial Institutions (NAFIs) to promote access to credit and increasing liquidity of mortgage and economic development loans.

Based on recommendations from the National Commission on Native American Housing, the Department of Housing and Urban Development proposed an approach that builds on the Reigle Community Development Act of 1994. The Quinault Nation supported the effort which led to the enactment of the Reigle Community Development Act and continues to believe that the concepts embodied in that Act have real validity in Indian Country. We also agree that centralizing technical assistance services for Native American Financial Institutions makes sense.

We do have a few concerns about the approach proposed in this bill, some of which can be addressed through amendments but others of which may require taking an entirely different approach. Our concerns are:

1. It appears that the CDFI program which this bill is designed to supplement may be in danger of not receiving the appropriations needed to make the NAFSO program useful and viable. We hope the Committee will explore ideas which will allow the technical assistance and increased access to financial markets purposes of the bill to survive regardless of whether the CDFI program receives funding or not. In addition, we urge the Committee to review the provisions of the Reigle Community Development Act that define eligibility and forms of assistance available to community development financial institutions of which Native American Financial Institutions would be one. For example, S. 436 cross-references the Community Development Act to define eligible institutions. Section 103 of the Community Development Act, however, might be construed as eliminating Native American Financial Institutions which are agencies or instrumentalities of tribal government, a situation which would deter almost all tribes from pursuing this program. It should be clear that NAFIs which are instrumentalities of tribal governments are eligible for the NAFSO programs.

2. We hope careful attention will be paid to avoiding the creation of another national organization and/or bureaucracy that soaks up any available funds before they can reach the reservation. As this Committee is aware, the Quinault Nation has been a vigorous advocate of ensuring that all available resources make it to the tribal government for local decisionmaking via Self-Governance and Self-Determination programs. The merits of centralizing technical assistance are obvious, but we urge the Committee to include language that would direct distribution of virtually all of the funds not needed for technical assistance personnel to the local tribal agency.

3. We also urge the Committee to consider locating the NAFSO outside of Washington, DC. We are concerned that the people who comprise the available talent pool to provide the technical and financial expertise needed to make this program succeed in Indian Country may not be willing to relocate to Washington, DC. Our experience in attempting to identify candidates for the BIA Self-Governance position informs this concern. In addition, the services needed are best provided from the field and any Washington DC coordination can be accomplished electronically.

4. We hope that Congressional expectations about tribal investment in the NAFSO are realistic. Although some tribes are beginning to generate funds suitable for investment, they are far from the norm. In addition, for those tribes that have attained a modest investment portfolio, investing in an undertaking such as NAFSO may not be in accord with their investment policies—many tribal business committees would be less likely to invest in an undertaking that would be considered high-risk, low return when there are much safer investment opportunities available at a higher return. We are not saying that tribes would not see the merit in supporting a program that makes investments back into tribal communities, but only that tribal contributions in the form of purchase of shares might develop more slowly than assumed in this bill.

The Quinault Nation hopes that these few comments will be taken into consideration as the Committee continues its deliberations. We appreciate the recognition of a serious problem and the efforts of the Administration and this Committee to find ways to begin to overcome them. Thank you again for allowing me to testify.



PREPARED STATEMENT OF JACQUELINE L. JOHNSON, CHAIRPERSON, NATIONAL  
AMERICAN INDIAN HOUSING COUNCIL

Chairman McCain, Vice Chairman Inouye and members of the committee, my name is Jacqueline L. Johnson, and I am the Chairperson of the National American Indian Housing Council ("NAIHC"). We are the only Native American non-profit association whose sole mission is to support the national network of 187 Indian housing authorities ("IHAs"). We support organizations on the front line each day implementing HUD programs as providers of over 75,00 IHA units. Although I sit before you today representing NAIHC, I must tell you that my perspective on these issues has been shaped by a variety of experiences—growing up in rural Alaska as a member of the Tlingit Tribe, managing HUD programs as Executive Director of the Tlingit Haida Indian Housing Authority in Juneau, and advocating for tribes as a former member of the American Indian, Alaska Native and Native Hawaiian Housing Commission.

It is this last role with the Commission that first enabled me to work closely with you and your staff last session on the Native American Financial Services Organization (NAFSO) legislation that is the main focus of my testimony today. As NAIHC Chairperson, I actively participated in many of the discussion sessions held during the development of the NAFSO proposal. I must say, Mr. Chairman and Vice Chairman Inouye, that your assistance with this bill and your commitment to Native Americans are great sources of strength for us in these new and uncertain times. I also want to express my appreciation to the Clinton administration for collaborating with us to hammer out the provisions of the NAFSO legislation. HUD Secretary Henry Cisneros, Joe Shuldiner, Assistant Secretary for Public and Indian Housing, and Dom Nessi, Director of the Office of Native American Programs, all worked hard to help shape the housing provisions in this innovative proposal. Furthermore, they harnessed the ideas and energy of other Administration players (from the Departments of the Interior, Treasury, and Agriculture, Office of Management and Budget, and Council of Economic Advisers) to agree on a broad approach to help housing, infrastructure and economic development—and get the job done without relying predominately on federal dollars.

HUD's recently published Final Rule on Indian housing programs and its proposed Blueprint For Reform indicate that the Federal Government is changing its approach to Native American housing. Each work product suggests new, more flexible solutions to the seemingly intractable problems of supply and demand for Indian housing. Some of the more popular "new" ideas, such as using vouchers for IHA rental housing, are not be any better than the current system at meeting our needs. The voucher model does not work in areas where a large private housing stock does not exist.

We believe HUD is on the right track with its new Final Rule, the Blueprint and HUD's pledge to deregulate, streamline and block grant agency programs. With that said, it is time to move beyond federal programmatic changes and stimulate much greater private sector interest in meeting demands for Native housing, infrastructure and economic development.

The NAFSO proposal emanated from recommendations of the Congressionally-chartered Commission on American Indian, Alaskan Native, and Native Hawaiian Housing. I served for 3 years on this Commission, advocating incessantly for targeting more technical and financial assistance to Native Alaskan communities to tackle our severe housing and infrastructure development needs. Our original Commission proposal was to create a Native American Finance Authority, or NAFA, that could originate loans for Native housing and for infrastructure development. We also wanted NAFA to enter the secondary mortgage market as a purchaser of loans issued by Indian housing authorities or other entities willing to lend to first-time borrowers in Native communities who have stable jobs but little money for a down payment or little or no credit history to satisfy traditional lenders.

After many brainstorming and negotiating sessions, Commission members and Administration officials finally concluded that the greatest need in Native communities is for capital infusion from all levels: federal, local, tribal, private, wherever. We all agreed that, with more public and private capital available, Native communities can better meet their needs for housing, and infrastructure, as well as provide economic development and consumer loans. The NAFSO proposal creates a Native American financing structure which at present does not exist. NAFSO fulfills the urgent need for primary lending within Indian Country for community housing, infrastructure and economic development. In addition, NAFSO is designed to stimulate the secondary mortgage market purchase of loans made in Indian Country so there will continue to be a steady flow of private sector funds to finance these types of projects.

It is generally recognized that the housing market is a primary indicator of whether the U.S. economy is slowing towards a recession or is building towards a boom. This is not true in Indian Country, however, because there is so little financing for housing. NAFSO is needed now to infuse capital into Native communities to spur economic growth. We must create and get off the ground financing structures that can meet the needs of our Native communities.

Today, as I sit here, there are only a handful of banks servicing the unique needs of Native Americans. There are very few credit unions readily available to Native Americans. Of these few existing Native financial institutions, none really is able to meet the needs of Indians outside their geographic region. Additionally, the loans they are able to fund are generally those referred to as "non-conforming" loans. What is a "non-conforming" loan? Generally it is one that does not meet every single one of the myriad requirements imposed by would-be purchasers in the secondary market for such loans. This could mean that a borrower has put too little or no down payment on the home, or that the borrower's credit history is shallow.

If the secondary mortgage market is not willing to buy these loans, then the issuing Native bank must hold the loans in their portfolio. Consequently, the issuing bank cannot free up funds to make additional loans. This is a major reason that private financing, especially for housing and infrastructure development, is so limited in Indian Country.

Let me take a moment to applaud Congressman Doug Bereuter (R-NE) for his foresight and dedication in shepherding the Indian Loan Guarantee Program through to enactment in the Community Development Act of 1992. Under this authority, Congress may appropriate up to \$50 million in loan guarantees for Indian families, IHAs and Alaska Native families. This Important loan guarantee program has been minimally funded at \$2 million in its first year, and \$3 million for fiscal year 1995. The House of Representatives have targeted this program for elimination in its current Budget Resolution. Instead of threatening it with repeal, Congress should increase its funding. It is the kind of program that ensures that a minimum level of financing is available for credit-worthy individuals today while other initiatives are developed to attract non-federal investment into Native communities tomorrow.

Those of us who struggled to work out the details of the NAFSO proposal believe that public-private, federal-tribal partnership arrangements can infuse needed capital into Native communities. NAFSO can work because it is a solution with Native American roots. It will allow tribal governments to build upon self-governance and self-determination, and learn how to develop and maintain their own financial services.

To jump start NAFSO, it is designed to dovetail with the recently-enacted Community Development Banking and Regulatory Improvement Act of 1994. As introduced, S. 436 prescribes a two-tier structure with NAFSO at the national level serving primarily as a technical assistance and provider and conduit for the Community Development Financial Institutions ("CDFI") Fund assistance flowing to a second tier of Native American Financial Institutions, or NAFIs, operating in local Native communities as primary lenders.

The NAFSO would serve as an information clearinghouse with counselors assisting tribes and groups interested in creating NAFIs. For example, the NAFSO could advise tribes on how to organize NAFIs, provide them with technical assistance and financial expertise on methods of underwriting, securing, servicing, packaging and selling mortgages and small commercial and consumer loans. NAFIs also could provide traditional checking and savings account services. The idea is that with an infusion of some limited federal "seed" funding matched with funds raised in the local community interests supporting the NAfi, the new NAfi can begin to make and service loans for home mortgages, infrastructure construction and improvements, small business development, and consumer loans.

A second goal of NAFSO is to help create a long overdue secondary market for mortgage loans for Native housing. The legislation establishes loan purchase goals for secondary market purchasers, Fannie Mae and Freddie Mac to meet. If these entities fail to meet the goals, NAFSO would be authorized to engage directly in secondary mortgage activities. NAFSO also would fulfill the requirement in the CDFI Act to report to Congress on the barriers to private financing in Indian Country and to identify what more is needed to stimulate lending activities there under certain circumstances.

NAFSO would be a government-chartered, for-profit corporation that will be privatized at the end of 10 years or upon achieving assets and liabilities in excess of \$20 million, whichever occurs first. If it is successful, the NAFSO would grow, as a private corporation, and continue to expand into new markets and offer new and innovative services. This could readily occur if the NAFSO developed a solid

secondary mortgage market capability (a function which has made Fannie Mae, originally a government-sponsored enterprise, one of the wealthiest private U.S. corporations today).

The proposed corporation would be governed by a Board of Directors and have an Advisory Council. The membership of each body would be representative of the various Native American communities. The Board and Advisory Council were so structured to ensure that the various unique components, customs and criteria of the different tribes will be adequately addressed. Shares in the corporation would be equitably distributed among federally recognized tribes. The Board could elect to sell additional shares to stimulate more investment in NAFSO. The intent is that tribes and other Native American organizations will view NAFSO as an investment tool, which in turn will help NAFSO become self-sufficient over time.

Funding for the NAFSO proposal must be viewed as a one time infusion to "prime the pump". Limited federal funds will provide technical support to a lending community that will be investing in a new market. Without this technical support, lenders will be hard pressed, as they have been in the past, to understand the peculiarities of the markets in Native communities. Unless and until the existing primary and secondary lending markets understand both the needs and unique character of the Native American borrower and his or her community surroundings and culture, the entire frontier of lending in Indian Country cannot be explored and the market demands will remain unmet.

In short, NAFSO's purpose is to make the primary and secondary lending markets work in Indian Country. This will stimulate much needed housing and economic development for Native Americans. Furthermore, it will reduce reliance on federal programs which have tended to be expensive and leave large segments of the targeted population without needed assistance.

The Federal Government alone cannot fix the problem of inadequate financial resources available to Native Americans. Yet the Federal Government can and should provide the necessary impetus and resources to bring traditional lending institutions together with those able to explain the unique needs and impediments facing the Native American borrower. NAFSO should be enacted and funded so as to provide the necessary assistance and structure to bring these groups together to work cooperatively. NAFSO can identify the barriers to private financing on Indian reservations and trust lands and then structure the financing mechanisms to overcome these barriers. Until this is done, the housing crisis in Indian Country will continue unabated.

To understand the critical need for the NAFSO proposal requires a candid discussion of what we mean, and the Native Housing Commission wrote, about the housing crisis in Indian Country today.

We use the word "crisis" deliberately. For too long Federal decision-makers tried to make general approaches to all public housing apply to the unique housing conditions in Native American communities. I would like to present the Committee with a clearer picture of the current state of housing in Indian Country and how it poses fundamentally different market challenges than other urban and rural areas.

When one mentions that there is a tremendous shortage of Indian housing, many people are skeptical. They think of federally-sponsored housing as endless, concrete-slabbed boxes, laden with graffiti and dominated by youthful gangs. This media-inspired snapshot of large, run-down structures with concentrated pockets of poor families is one picture of the public housing problem in America. It is not, however, the kind of housing problem that exists in Indian Country.

HUD's Indian housing officials have recognized and addressed two very important deficiencies: first, the lack of specific, comprehensive data on the extent and varieties of Indian housing needs; and second, the inappropriateness and/or excessive rigidity of existing HUD programs to meet those needs. To solve the first problem, HUD asked the Urban Institute to conduct an Indian housing needs assessment. To address the second deficiency, HUD has published its Final Rule, offered its Blue Print For Change, and endorsed enactment of NAFSO.

Some information found the Urban Institute found was:

The idea that the bulk of the Indian population is gradually shifting away from reservations to metropolitan areas is a myth. The American Indian and Alaska Native population has grown six-fold over the past 40 years, with "Tribal Areas" capturing 78 percent of this growth since 1980. In fact, urban case studies suggest that many Indians are eager to move back to the reservation when they retire, because cultural ties remain strong in Native American communities.

Physical housing problems and the lack of privately-financed, owned and operated rental housing in Tribal Areas are extreme by national standards. A shocking 40% of Native American households both are overcrowded and lack elec-

trical plumbing and kitchen facilities, compared to an average of 5.9 % for all U.S. households.

The demand is real for additional housing units. Vacancy rates in both assisted and unassisted units are very low—6 percent on average—and the number of households on waiting lists averages about half the total number of existing IHA units.

There is a fundamental economic “disconnect” between Native American families who can afford to own a home and the financing mechanisms which allow access to the market. Homeownership rates for higher-income Native American households are unusually low compared to those of non-Indian families. On average, they are 11 percent lower than those of non-Indians at similar income levels.

These statistics result from several facts. First, Indian housing policies have often been designed for a uniform, anonymous Indian population. Just as there are over 550 federally-recognized tribes, there is an urgent need for specific, even self-styled, policies to accommodate local needs and cultural differences. Second, most land in tribal areas is held in trust for the tribes as a whole which prevents the development of private housing markets in many regions. Third, many Native American families can afford a mortgage but have not developed the appropriate credit history, or had access to the financing and technical assistance needed to realize their dream of homeownership.

As I have explained in my testimony, the NAFSO proposal addresses each of these problems.

Mr. Chairman and Vice Chairman Inouye, if we have learned anything from the debate waged in Washington these last few months, it is that there are some principles that cut across political perspectives and basic truths about human nature that should be incorporated into our policy goals.

First, we know that fair competition and market principles work. These principles underlie the current policy debates in the area of health care, telecommunications or pollution prevention. We also know that sometimes markets are imperfect. Then the appropriate role for the federal government is to help markets clear, minimize price distortions and maximize economic opportunity. The policy goal should be to remove embedded financial obstacles so that worthy purchasers are matched with willing lenders.

NAIHC believes we need the new approach that NAFSO offers to motivate private lending institutions to originate mortgages for Indian homebuyers and loans for infrastructure development projects. NAFSO's technical assistance is also essential to help tribes and Indian housing authorities develop their own capabilities to finance housing, infrastructure and economic development.

NAIHC's strong preference is for prompt enactment of S. 436 “as is” or in a nearly identical form. We recognize, however, that budget constraints may make ours an impossible dream. Therefore, we are fully prepared to work closely with Senator Campbell and this Committee to fashion some alternative provisions. One option might be to scale back some of the funding for NAFIs through the CDFI Fund. Another option would be to rely solely on the existing CDFI Fund assistance level. Or, it may be that completely different funding sources should be pursued for the federal match in order to meet the NAFI's local match.

Whatever the funding mechanism, we strongly believe that some national match is critical to motivate local entities to raise private capital from tribal or other sources for the NAFI local match. The NAFIs will need sufficient funds to issue loans which then can be pooled and purchased by secondary market participants. Once the NAFIs loans are purchased, their funds will be replenished to make additional loans. With this cycle well in place, the need for additional federal dollars will decline.

A narrower approach would be a NAFSO demonstration project whereby a limited amount of federal funding would be available to fund a handful of demonstration projects to show that the two-tier technical assistance/primary lending market infusion concept works as predicted. NAIHC would prefer to see a broader approach to help as many tribes and IHAs as soon as possible, however. A third alternative might be to expand existing technical assistance mechanisms to help tribes and IHAs develop their capabilities and target matching funds from the CDFI Fund or other federal source directly to NAFIs.

Our Elders are often fond of saying that a long journey begins with a single step. Tribal leaders and Indian Housing Authorities stand ready to work with our Congressional leaders to enact legislation to provide decent, affordable housing for Native Americans. Our goal at NAIHC is to greet the year 2000 having succeeded in bettering the lives of tribal members by literally building strong, safe roofs over

their heads. I believe our goal can be achieved by allowing tribes and IHAs the opportunity to join other citizens in harnessing the power of the market and by promoting personal responsibility in their communities. Mr. Chairman, NAFSO is the law we need to make this happen, for the will to do it is already there.

PREPARED STATEMENT OF JOEL R. THOMPSON, EXECUTIVE DIRECTOR, HOUSING  
AUTHORITY OF THE CHEROKEE NATION

Mr. Chairman and members of the Committee, thank you for this opportunity to appear before you today to provide testimony regarding S. 436, important legislation to improve the economic conditions and the supply of housing in Native communities by creating the Native American Financial Services Organization (NAFSO).

My name is Joel R. Thompson, and I am a member of the Cherokee Nation of Oklahoma, located in 14 counties of northeastern Oklahoma with our Capitol at Tahlequah. I am the Executive Director of the Housing Authority of the Cherokee Nation with over 4,300 housing units under management in the Low Rent, Section 8 and Mutual Help Homeownership Opportunity Program administered by the U.S. Department of Housing and Urban Development (HUD). I also am currently serving as Secretary of AMERIND Risk Management Corporation and was past Vice-Chairman of the Board of Directors of this self-funded insurance pool which provides coverage for more than 70,000 housing units throughout Indian Country.

The Housing Authority of the Cherokee Nation was organized pursuant to a statute of the State of Oklahoma which permitted the creation of Indian Housing Authorities. However, our local governing body is the Cherokee Nation and members of our Board of Commissioners are appointed by our Principal Chief Wilma P. Mankiller. Each Commissioner's appointment is then approved by our 15 member Tribal Council.

Chief Mankiller has shown leadership and dedication to providing decent, safe and affordable housing and homeownership opportunities for our tribal members now numbering over 160,000. Many of the more than 80,000 tribal members, residing within the 14 county jurisdictional service area of the Cherokee Nation, live at or below the poverty level and in conditions considerably more severe than those of the non-Indian populations. In more than 25,000 homes, Cherokee is spoken as a first language, a testament to a proud people whose culture and language are of paramount importance, in spite of their living conditions.

The Housing Authority of the Cherokee Nation has seen dramatic growth over the last 8 years. Our annual budget has grown from \$8 million to \$30 million and our work force has increased from 65 to 250 employees. In 1990, the Authority accomplished a first. We completely paid off our obligation under the Old Mutual Help Program, thereby assisting 750 Cherokee families in the achievement of homeownership. Chief Mankiller presented the HUD Assistant Secretary for Public and Indian Housing with a check for more than \$880,000. This advance payment saved the federal government an estimated \$4 million! At that time no housing authority, public or Indian, had ever accomplished such a feat, but we did. This was only possible with the efficient management of the Housing Authority of the Cherokee Nation and the desire of the families to achieve their dream of owning their homes.

Since that date, more than 400 additional housing units have been developed at the average rate of one every three days, with Indian contractors, craftsmen and material suppliers leading the way. These homes were "stick built" as opposed to modular. Believe me, this is no easy feat. It earned the Housing Authority the Department of Housing and Urban Development's recognition for "Sustained Excellence" in the administration of housing programs for the previous two years.

We have been and still are good stewards of the public's money. Our tenants accounts receivable for the Low Rent program seldom exceed 2% and our Mutual Help average is less than 6.5%. We believe in hard work and take pride in a job well done.

Chief Mankiller has long been dedicated to improving the housing conditions of Native people and convincing others that Native people can accomplish great things if given the opportunity. Knowing of her dedication, this Committee appointed her to serve on the National Commission for Native American, Alaskan Native and Native Hawaiian Housing. I was fortunate to work closely with her and the other members of the Commission on their Supplemental Report and to serve on the working committee that developed the Native American Finance Authority proposal, the forerunner of the NAFSO initiative.

The Commission identified many barriers to providing adequate housing for Native people, but the most profound was access to credit through local lenders. While there are nearly 850,000 American Indians, Alaskan Natives and Native Hawaiians

who live on or near their traditional homelands, only two commercial banks or thrifts were identified in Indian Country. Throughout Indian Country, HUD is the predominate agency making available funds and units for Indian housing; nearly 44 out of 100 are HUD units compared to 3 out of 100 units provided through other channels. These numbers underscore the dependency of Native people on publicly assisted housing programs. These statistics also illustrate the need for an alternative approach to the financing of housing units that would combine local investment with secondary mortgage market access. The NAFSO proposal offers such an approach.

S. 436, by establishing NAFSO, would provide technical assistance to Native communities to create Native American Financial Institutions (NAFIs). It also would authorize the NAFSO to provide much needed secondary mortgage market support and access. NAFIs, as private enterprises, will be able to combine, coordinate and leverage assistance now available in programs administered by HUD, Bureau of Indian Affairs at Interior and Farmers Home Administration. This will expand the housing options for Native families and begin to address the overwhelming need of 70,000 to 10,000 new or rehabilitated housing units.

Much thought was given, by the working group of Administration officials and National Housing Commission members, to the most efficient and effective way to target technical and financial assistance to meet Native communities' needs for housing, infrastructure and economic development. The working group decided to tie into the already enacted Community Development Banking and Financial Institutions Act (CDFI). The NAFSO bill, therefore, makes CDFI Fund monies available for a federal match by approved application from a Native American Financial Institution, or NAFI. Then the NAFI will be able to leverage the CDFI funds on a dollar-for-dollar basis. It is essential to encourage local investment to establish NAFIs by combining public and private sector resources.

An analysis of the 1990 Census provides a clear picture of how passage of NAFSO could address the difficulty of Native Americans in obtaining mortgages. As of 1990, 51.4% of Native Americans with homes on reservations, trust lands or allotted lands own them without a mortgage. These "homes" are generally in poor condition and are overcrowded. There is no mortgage for any of several reasons. First, the homeowners may have had no access to mortgage credit. Second, restrictions against alienation may prevent a lender from repossessing the home in the event of loan default. Therefore, the owners simply have built whatever could be afforded so as to put a roof over their families' heads. Otherwise, the alternative would be to wait interminably on a long waiting list for federal housing assistance.

In this country, there are 795,751 households in which either a Native American or Alaskan Native is identified as head of household. Of this number 448,292 (56.3%) own their own home. Some 226,984 (59.6%) have incomes greater than 80% of median income. These are the people who would access private financing to improve the impoverished conditions of their homes if private financing were available to them. They have the need and the income to pay. What they lack are the financial services traditionally associated with primary lending institutions, which most Americans take for granted. NAFSO would provide, through NAFIs, the financing mechanisms needed to bring these homes up to date, provide essential amenities (such as plumbing) and ease overcrowding.

The current version of NAFSO identifies IHAs as eligible lenders or eligible to become NAFIs. The CDFI Act's definitions applicable to S. 436, however, provide that an entity eligible for CDFI Fund assistance cannot be a state agency. Since IHAs are organized under the laws of the state, and frequently referred to as an agency of the state by courts within their jurisdictional service areas, such IHAs could be ineligible for CDFI Fund assistance. To avoid the necessity of seeking declaratory relief subsequent to passage of this bill, we recommend a technical correction to permit IHAs organized under state law to be eligible to lend and to accept CDFI Fund assistance. This minor change is both prudent and within the intentions of the framers of the NAFSO legislation. Furthermore, it would allow one or more IHAs, in Oklahoma for example, to pool some of their resources to establish a NAFI with a local match for a federal match from the CDFI Fund.

Although NAFSO would be enhanced with the leveraging potential of the CDFI Fund, NAFSO is not necessarily dependent on it. We are opposed to any reduction or elimination of the CDFI Fund, but what would not render NAFSO ineffective. NAFSO provides great opportunity for the private sector to enter into a market which is in great need of financial services but which, to date, has been largely ignored. A mechanism would still exist to establish financial institutions that are not available to Native Americans now. Primary lending in Indian Country is needed, it is desirable and it is worthwhile. I encourage you to support this legislation and to move for its passage. Thank you.

PREPARED STATEMENT OF MICHAEL A. STEGMAN, ASSISTANT SECRETARY, OFFICE OF POLICY DEVELOPMENT AND RESEARCH, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Mr. Chairman and Members of the Committee:

HUD's Office of Policy Development and Research commissioned, and will shortly release, the first national Assessment of American Indian Housing Needs and Programs. The research has been conducted by the Urban Institute, working in conjunction with Aspen Systems, Inc. and the National American Indian Housing Council, as well as an Advisory Board of experts on Native American housing issues. The researchers conducted a detailed analysis based on special tabulations from the 1990 census and HUD management data, as well as interviews with federal officials, IHA officials, tribal leaders, Indian households, mortgage lenders, and selected national experts. In-depth personal interviews were conducted at 36 representative Tribal Areas. This study will also include a separate analysis of housing needs for Native Hawaiians.

The study results indicate that the housing needs of American Indians and Alaska Natives continue to pose a major challenge for public policy, due to high rates of poverty, seriously deficient housing conditions, and a largely non-functioning private housing market. In my testimony today, I'd like to briefly summarize key findings about housing needs among American Indians and Alaska Natives and their implications for future policy.

The American Indian and Alaska Native population has been growing rapidly—a sixfold increase over the past four decades—reaching a level of 2.0 million in 1990 (see exhibit 1). This population is highly concentrated in and around Tribal Areas (including reservations, trust lands, and Alaska Native Villages), and the Indian population in these areas is increasing rapidly. Specifically, the 14 percent of all U.S. counties that contain Tribal Areas accounted for 60 percent of the AIAN population in 1990, and captured 78 percent of its growth since 1980 (see exhibit 2). These results and other data suggest that Native American ties to Tribal Areas remain strong.

Linking census indicators with other measures of structural deficiencies reveals that the physical housing problems of Tribal Areas are extreme by national standards; roughly 40 percent of Native American households in these areas live in housing that is overcrowded or physically deficient compared to a national average of only 6 percent (see exhibit 3). This implies that out of the 262,500 Native American housing units occupied by Native Americans in Tribal Areas in 1990, 105,200 were overcrowded or had serious physical deficiencies. The housing problems of native Americans are more severe than those of non-Indians in all types of communities. But these problems are most severe in Tribal Areas.

Although Native Americans in Tribal Areas throughout the United States face severe housing problems, there are important variations among Tribal Areas. For example, 183 of the nation's 508 inhabited Tribal Areas are located within 50 miles of an urban center and have as many non-Indians as Indians living within their borders. In these "open" areas, the share of Indians living in overcrowded or physically deficient housing is lower, while the share paying affordable cost burdens is higher. In contrast, in the 325 Tribal Areas that are small, profoundly poor, and physically remote, a much larger share of households face structural housing problems and relatively few have affordable housing costs.

HUD has played a significant role in attempting to address housing needs within Tribal Areas, producing about 60,700 units which serve 26 percent of all Indian households in Tribal Areas and 42 percent of those with low incomes. Nevertheless, about 94,300 low income Native American households live in unassisted housing in Tribal Areas, and 45 percent of these have serious unmet housing needs. Thus, despite a sustained commitment over roughly thirty years, much more remains to be done to address the housing needs of Native Americans and Alaska Natives.

This research identifies significant opportunities for the private sector to play an increased role in providing homeownership opportunities for Native American families living in or near Tribal Areas. For example, in the counties immediately surrounding Tribal Areas, 51 percent of native American households have incomes that are 80 percent or more of median income. Moreover, the 183 "open" Tribal Areas (near urban areas and with significant non-Indian populations) typically have a fairly strong private employment base and a comparatively low proportion of very poor households. These areas show significant promise for private mortgage lending. Notably, 38 percent of Native American households within these Tribal Areas have incomes above 80 percent of median income. Some of these areas, especially in Oklahoma, already have significant private lending to Indian homebuyers. In a small sample survey conducted for this study of lending institutions located near Tribal

Areas, very few had made loans to Tribal Areas but these private sector lenders express willingness to increase the level of residential mortgage loans to Native Americans.

Tribal Areas contain the worst concentrations of housing problems remaining in America today. Native Americans live in housing deprivation at levels which virtually disappeared from the rest of the United States over forty years ago. HUD housing programs have succeeded in providing generally good quality housing to more than a quarter of the Native American households living in Tribal Areas. Nonetheless, forty percent of Native American households in Tribal Areas continue to have severe housing needs.

There is potential to make greater use of private financing so that homeownership is accessible for moderate- to middle-income Native Americans who want to live in Tribal Areas. HUD, BIA and other Federal agencies will have to continue to provide assistance, particularly to the many small, isolated and impoverished Tribes, whose conditions are heavily influenced by previous governmental practices and discrimination. While this study shows clear benefits from Federal housing programs, substantial need remains and will require continued, sustained Federal commitments over the next decade and possibly beyond. More detailed policy suggestions will be provided when the final report of this study is transmitted to Congress.

That is the conclusion of my prepared remarks. I would be happy to answer any questions.



Chart 1

## A SMALL BUT RAPIDLY GROWING NATIVE AMERICAN POPULATION

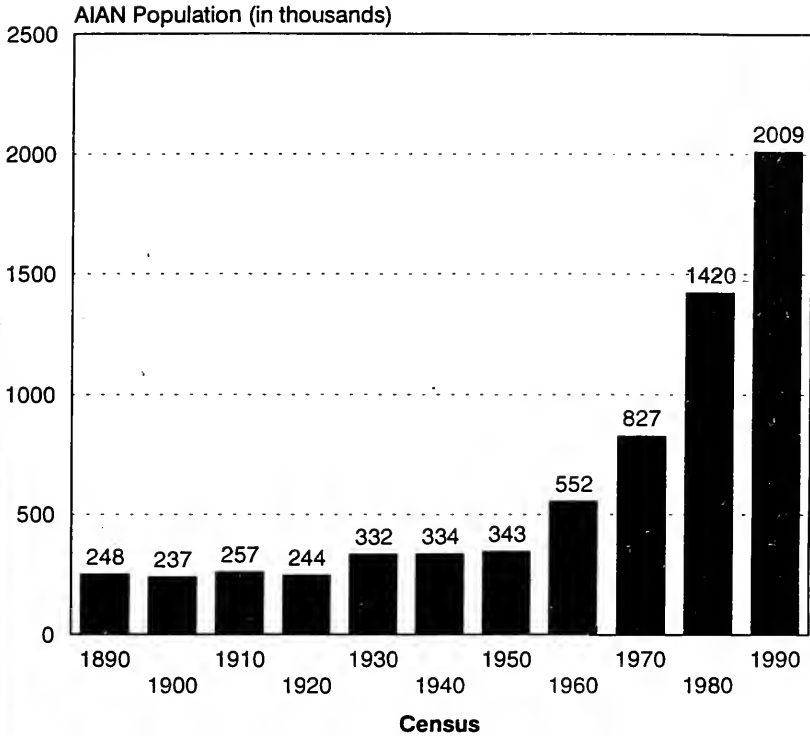


Chart 2

## NATIVE AMERICAN POPULATION CONCENTRATING IN TRIBAL AREAS AND SURROUNDING COUNTIES

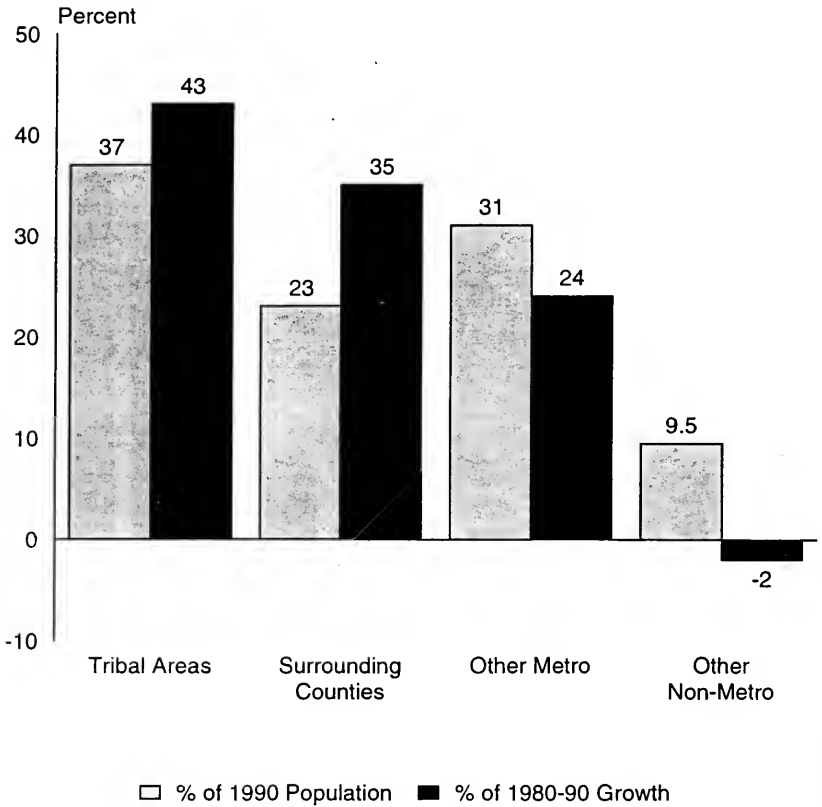
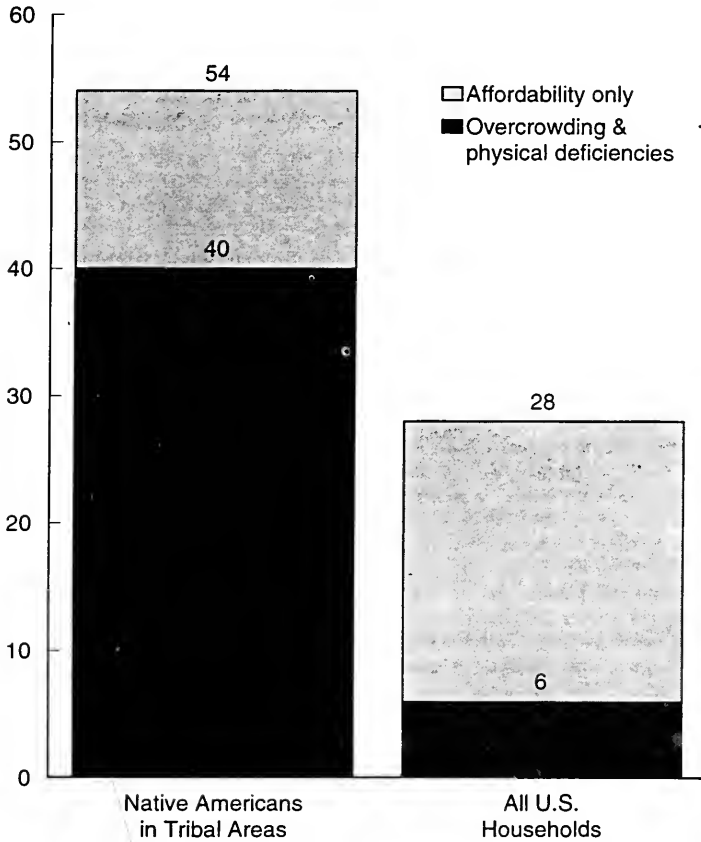


Chart 3

## SEVERE HOUSING PROBLEMS AMONG NATIVE AMERICANS



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Physical Problems: Add Condition and Heat/Electrical

**ASSESSMENT OF AMERICAN INDIAN HOUSING NEEDS AND PROGRAMS****EXECUTIVE SUMMARY**

May 1995

The *Assessment of American Indian Housing Needs and Programs* was initiated in 1993, under the sponsorship of the U.S. Department of Housing and Urban Development (HUD). The purposes of this study have been to: (1) evaluate the housing problems and needs of American Indians and Alaska Natives, (2) assess the effectiveness of existing federal housing programs in meeting those needs, and (3) compare alternative approaches and suggest ways in which federal policy regarding the housing of these Native Americans could be improved.<sup>1</sup> This is the first comprehensive national study of these issues, motivated by recognition of the need for a sounder empirical basis for policy considerations. The study's charter has called not just for national averages, but for serious examination of how Indian housing problems vary in different locations and what such variations may imply for policy.

The research began with analysis of a special tabulation of census data on housing and other characteristics of the American Indian and Alaska Native (AIAN) population; analysis of data from HUD management information systems on program performance; and interviews with a broad range of federal officials. To obtain deeper understanding as well as clear "reality checks", it also entailed: telephone interviews with officials of virtually all local Indian Housing Authorities (IHAs), the agencies that administer HUD programs in Tribal Areas nationwide (as used in this report, Tribal Areas include American Indian Reservations, Alaska Native Villages, and other special types of areas so designated by the U.S. Census); on-site in-depth interviews with tribal leaders and IHA officials at 36 representatively sampled Tribal Areas; interviews and observation of housing conditions for a sample of households at the same sites; a small survey of private mortgage lenders; case studies and selected interviews concerning the housing of American

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<sup>1</sup>This report presents the study's findings and conclusions related to each of these purposes. Two other reports have been prepared under this study: (1) *Housing Problems and Needs of American Indians and Alaska Natives* (by G. Thomas Kingsley, Maris Mikelsons, and Carla Herbig, Washington, D.C.: The Urban Institute, 1995) which presents more detailed analyses supporting the summary findings on this topic presented in Part I of this report; and *Housing Problems and Needs of Native Hawaiians* (by Maris Mikelsons and Carl Eschbach, with Virginia E. Spencer and John Simonson, Washington, D.C.: The Urban Institute, 1995), containing the results of special analyses added to the study agenda in mid-1994, which are not reviewed in this report.

Indians living in metropolitan areas; and recurrent consultations with independent national and regional experts on the problems and dynamics of the AIAN population.

It is important to note that, while the U.S. government makes housing assistance available to low-income Americans in all locations, the context for such assistance in Tribal Areas differs in at least three important respects. First, the basis for such support derives from the nation's recognition of special obligations to the AIAN population, reflected in treaties, legislation, and executive orders, long before Federal housing subsidies were provided to the general population. Second, the Federal government deals with recognized tribes directly in a sovereign-to-sovereign relationship, rather than through the general system of State and local government. Third, most land in Tribal Areas is held in trust for the tribes as a whole, rather than being subdivided into many private holdings as occurs in the rest of the country--this has frustrated the development of private housing markets in Tribal Areas and has long been seen as providing special justification for government assistance in housing production.

The study results indicate that while progress has been made, the housing needs of American Indians and Alaska Natives continue to represent a major and distinctive challenge for public policy. Main findings and conclusions are:

- *The housing problems of the American Indians and Alaska Natives remain considerably more severe than those of non-Indians in all parts of America. This is particularly true in reservations and other Tribal Areas where, according to Census data, 28 percent of AIAN households are overcrowded or lack plumbing or kitchen facilities (the comparable average for all U.S. households is 5.4 percent). A sample survey conducted as a part of this study suggests that, adding in condition and other facility problems, the total overcrowded or living in inadequate housing in Tribal Areas is around 40 percent (the comparable U.S. average is 5.9 percent). For AIAN households living in other locations (metropolitan and nonmetropolitan) having to spend an excessive share of their income for housing (rather than physical deficiency) is the dominant problem.*

- *The character of AIAN housing problems and, therefore, the best strategies for addressing them, vary importantly in different types of environments. Even among Tribal Areas, there is tremendous diversity, ranging from extremely isolated and poor tribes to somewhat better off tribes located nearer metropolitan labor and housing markets. For a significant number, more emphasis on attracting private mortgage lending and applying other market-oriented housing strategies appear warranted.*

- *Housing produced under HUD's Indian housing programs does have defects, but its availability has substantially improved living conditions for thousands of families. This housing stock accommodates about one fourth of all AIAN households living in Tribal Areas. The programs*

appear to be reasonably well managed on average (although there are important variations in local performance and capacity). Nonetheless, basic rigidities remain in the traditions and statutory structure of the programs themselves, frustrating the efficient and equitable application of available resources.

■ The most attractive direction for reforming Federal housing assistance in Tribal Areas should be to consolidate existing programs into more flexible mechanisms that give tribes and their IHAs broader latitude in planning, funds allocations, and implementation to address local housing needs as they see them, but hold them more clearly accountable for performance. For Native Americans with housing problems living in other areas, emphasis should be on expanding their access to assistance within the framework of Federal housing programs provided for the general population.

■ Priority should also be given to policies that promote and facilitate enhanced private investment in Indian housing. The number of AIAN households at moderate- and higher-income levels is substantial, and homeownership rates for these groups are well below those for non-Indians at the same income levels. Private lenders and market intermediaries are beginning to recognize that expanded mortgage lending to AIAN households and communities may be a promising market opportunity. But policy support is needed to translate this opportunity into reality at sufficient scale.

#### I. HOUSING PROBLEMS AND NEEDS

##### Social and Economic Trends and Contrasts

**Population growth and spatial patterns.** The American Indian and Alaska Native population in the U.S. has been growing rapidly—a sixfold increase over the past four decades, reaching a level of 2.0 million in 1990. Most noteworthy is that the concentration of this population in and around reservations and other Tribal Areas is increasing. The 14 percent of all U.S. counties that contain Tribal Areas accounted for 60 percent of the U.S. AIAN population in 1990, and had captured 78 percent of its growth since 1980. The popular impression that the bulk of the Indian population is gradually shifting away from the reservations to metropolitan areas is a myth.

A number of indications in this study suggest that cultural ties to Tribal Areas remain strong. For example, urban case studies indicate that many Indians living in urban areas retain ties to their tribes and hope to move back to the reservation when they retire. Also, in household

surveys, the primary reason tribal members gave for living off the reservation was the necessity of obtaining employment, rather than any negative feelings about reservation life.

Of the 2.0 million 1990 total AIAN population, 37 percent lived in Tribal Areas themselves, and 23 percent lived in the surrounding counties. Another 31 percent were residents of metropolitan areas in the rest of the country (down from 33 percent in 1980). Only 9 percent lived in other non-metropolitan areas and the share in such areas was declining sharply (down from 13 percent in 1980).

**Social and economic characteristics.** Compared to non-Indians, the AIAN population is more family oriented, but more prone to economic distress. Nationally, more AIAN households are married couples with children (37 percent vs. 28 percent) and many more are large (5 or more person) families (20 percent vs. 11 percent). The AIAN population has a higher unemployment rate (14 percent vs. 6 percent), a smaller number of workers in "for-profit" firms per thousand population (255 vs. 362) and a higher share of households with very low-incomes (VLI, one third vs. 24 percent).<sup>2</sup>

**Variations in differing environments.** These types of AIAN/non-Indian differences exist in all locations but they are most pronounced in Tribal Areas. For example, large families represent 27 percent of all AIAN households in Tribal Areas, but only 19 percent in their surrounding counties, and 16 percent in the rest of the U.S. (both inside and outside of metropolitan areas); VLI households represent 43 percent of the AIAN total in Tribal Areas, 30 percent in the surrounding counties, and 28 percent in other metropolitan and non-metropolitan areas. Tribal Areas have an average of only 158 for-profit employees per 1,000 population, compared to 311 for Indians living elsewhere.

**Diversity of conditions across tribal areas.** Even across Tribal Areas, however, there is much more diversity than is typically understood. To many outsiders, the stereotypical Indian reservation is a small, remote, and poor community with little access to employment or other opportunities that are offered in our predominantly urban society. This is an apt characterization for many of them, but not for all. In fact, out of the 508 inhabited Tribal Areas nationally:

- 183 (accounting for 53 percent of the total AIAN Tribal Area population) are Large (have an AIAN population of 400 or more), and have one of two other characteristics: (1) they are Near Urban (located within 50 miles of an urban center with a population of at least 50,000), and/or (2) Open (having at least as many Indians as non-Indians living within their boundaries).

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<sup>2</sup>Very low-income\* households are those with incomes less than 50 percent of the median income in their local labor market areas.

These Areas, on average, have a fairly strong private employment base (217 for-profit workers per 1,000 population) and a comparatively low share of households in the VLI group (35 percent).

- Out of the first group, 46 (accounting for 25 percent of the total population) have all three of the characteristics mentioned (Large, Near Urban, and Open). These fare even better than the first group, with a for-profit employment ratio of 242 and a VLI share of 31 percent.

- The remaining 325 Areas are more often like the stereotype--remote and poor. They have an average of only 91 for-profit employees per 1,000 population and 59 percent of their households are VLI.

Generally, statistical analysis showed that the more open and nearer to an urban center a Tribal Area was, the stronger its economic position was likely to be. This relationship was far from a perfect fit, however. Many other factors (including the effectiveness of tribal government, work force skills, the value of the Area's natural resource base, and others) undoubtedly also play a critical role.

**The AIAN metropolitan population** is concentrated in a limited number of areas rather than being evenly spread. Over 60 percent live in just 15 metropolitan areas. An unexpected finding is that, in these areas, a larger share of the AIAN population lives in the suburbs (59 percent) than the non-Indian population (54 percent on average). It must be remembered, of course, that there is great divergence within the non-Indian population in this regard: AIAN households are much more likely to live in the suburbs than blacks or Hispanics, but less so than whites. Index measures show substantially less residential segregation for American Indians than for Blacks and Hispanics.

**City/suburban differences.** AIAN suburban residents are typically in a better position economically than their counterparts in the central cities, but they clearly have not achieved parity with the suburban average. In fact, AIAN/non-AIAN disparities are often greater in suburban locations. For example, the AIAN unemployment rate in the central cities of the 15 metropolitan areas is 11 percent (1.2 times that for non-Indians). The comparable suburban AIAN rate is much lower (8 percent) but that figure is 1.7 times the suburban non-Indian average.

### **Housing Problems in Tribal Areas**

**Census Indicators** show that the physical housing problems of Tribal Areas are extreme by national standards: 28 percent of AIAN households in these areas live in housing that is overcrowded and/or lacks kitchen or plumbing facilities--compared to a national average of only 5.4 percent. (And Tribal Area problems in this regard are much more serious than those for AIAN households in other areas, as will be discussed below). The share of AIAN households in these



areas that live in decent housing but have an affordability problem (housing expenses exceeding 30 percent of their income), however, is smaller than that for the general population (16 percent vs. 20 percent).

There are important regional variations in the incidence of housing problems in Tribal Areas. Probably most important is that physical problems (overcrowding and facility deficiencies) are considerably higher in two regions than elsewhere: Alaska and Arizona-New Mexico where 63 percent and 61 percent, respectively, of all AIAN occupied units are affected. Overcrowding rates are still serious in the Tribal Areas of all other regions (much above the national averages for non-Indians) but the incidence of facility deficiencies is fairly low in most other regions except for these two.

The pattern with respect to affordability problems, however appears to be almost the reverse of that for physical problems. Oklahoma, for example, which has by far the lowest share of its units with physical problems, has among the highest shares with affordability problems (21 percent). Unlike almost all others, the Tribal Areas of Oklahoma have large private land areas within them and a land tenure system that has tended more to foster the emergence of private housing markets.

**Other physical housing problems** (deficiencies in structural condition and heating/electrical systems) are not measured by the Census. The gap between the U.S. average and Tribal Area problems widens even further when these other deficiencies are considered. Based on a survey conducted by this study of a small sample of Tribal Area households, we estimate that, *in total, roughly 40 percent are overcrowded and/or with one or more serious physical problems (the comparable national average is 5.9 percent)*. The comparable share for AIAN households in Tribal Areas that do not live in HUD assisted housing is 45 percent.

**Total units with physical problems.** Official census figures show a total of 234,400 occupied housing units in Tribal Areas nationally in 1990. The 40 percent average implies that 93,800 of these units were overcrowded and/or had serious physical deficiencies. That number, however, is not adjusted to compensate for the major census undercount in Tribal Areas that occurred in 1990. If that adjustment is made, the total overcrowded and/or with serious physical deficiencies would be 105,200 units.

**Diversity in housing problems and circumstances.** Tribal Areas are as diverse in their housing characteristics as they are in their social and economic circumstances. While again there was much variation around these tendencies, statistical analysis shows that, generally, the more open a Tribal Area is and the closer it is to a large urban center: (1) the smaller its overall share of households with housing problems; and (2) the lower the share that have overcrowding

and/or facilities problems; but (3) the higher the share that have affordability problems. To illustrate:

- For the 183 Areas that were Large and Open and/or Near Urban (as defined earlier), on average, just one third of all households had one or more housing problems: 12 percent had overcrowding and/or facilities problems, and 21 percent had affordability problems only. In these areas, housing strategies that rely more on private markets clearly warrant consideration.

- For the remaining 325 Areas, 62 percent had one or more housing problems: 52 percent had overcrowding and/or facilities problems, and only 10 percent had affordability problems only. In these areas, market-oriented housing strategies are less likely to be workable.

These marked variations in the magnitudes and types of local housing problems suggests that any single nationally imposed housing strategy for Tribal Areas is likely to prove unworkable. Area-specific conditions should determine the best mix of policy tools to be applied. While some general themes are likely to be applicable in most areas, specific program approaches need to be locally tailored to be feasible in the Area at hand.

In a sizeable number, attempts to address a larger share of low-income housing problems through assistance in the private housing market appear promising (rather than relying solely on traditional government production programs which typically cost more per household accommodated). In many Tribal Areas, there are significant numbers of households with incomes that should enable them to purchase decent homes if private mortgage financing was being made available as it is in the rest of the country.

#### **AIAN Housing Problems In Metropolitan and Other Environments**

**Physical problems.** In the rest of the U.S., the share of AIAN households with overcrowding and/or plumbing/kitchen facility problems is considerably less severe than in Tribal Areas, but still well above the 5.4 percent average for the general population: 14 percent in counties surrounding Tribal Areas, and 9 percent in other metropolitan and non-metropolitan areas.

**Affordability problems.** The dominant housing problem for AIAN households in these environments, however, is affordability. The share who live in decent housing but have an affordability problem is 27 percent in the surrounding counties, 29 percent in other metropolitan areas, and 27 percent in other non-metropolitan areas--compared to the national average of 20 percent.

**Homelessness.** Household surveys done for this study indicate that in Tribal Areas, the lack of sufficient housing is reflected in severe overcrowding rather than actual homelessness; i.e., virtually all people who have no shelter of their own are taken in by relatives or other tribal members. Homelessness per se is a serious problem, however, for the AIAN population in urban areas. The survey generally considered the most reliable indicates that AIAN individuals account for 2.3 percent of all homeless people nationally--an incidence rate three times that for the population as a whole.<sup>3</sup>

**Homeownership** rates for higher-income AIAN households are unusually low, particularly considering that such a high percentage of them are family households (those that normally find ownership most desirable). While 48 percent of all AIAN households nationally are in the moderate- and higher-income ranges (incomes above 80 percent of the local median), ownership rates for these groups are significantly below those of non-Indians at similar income levels in most parts of the country (for example, 66 percent vs. 75 percent in metropolitan areas).

## II. PROGRAM ASSESSMENT

### HUD Programs in Tribal Areas

A broad array of Federal housing assistance programs is made available in Tribal Areas--together budgeted at levels totaling \$585 million in 1993 (the equivalent of 2.3 percent of HUD's total budgeted outlays in that year). This assistance is dominated, however, by two HUD programs which accounted for 88 percent of the Tribal Area total: the Rental program--which operates just like public housing--and the Mutual Help program--a homeownership (lease-purchase) program in which buyers make small monthly payments and, unlike the Rental program tenants, must cover their own operating and maintenance expenses. Both programs are administered by the 187 IHAs--autonomous agencies whose boards are appointed or elected by the tribes they serve. HUD administers the programs through its central Office of Native American Programs (ONAP) and its six regional field offices (FONAPs).

**Scale of HUD programs.** By the end of 1993, a total of nearly 100,000 units had been funded under these two programs since they began in the mid-1960s (75,400 were in management, 8,900 were paid-off Mutual-Help units, and the remainder were still in planning or construction). Of those in management, 27,200 (36 percent) were Rental units, the rest being produced mostly under Mutual Help. A high level of budget authority provided in the late 1970s

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<sup>3</sup>Burt, Martha. 1992. *Over the Edge: The Growth of Homelessness in the 1980s*. New York: Russell Sage Foundation.

allowed these programs' output to peak in the early 1980s (1980-84 average of 3,819 units completed per year). Production levels have since declined (3,045 over 1985-89, and 2,044 over 1990-93), but enough units are now in the later stages of planning and construction that completion rates should pick up somewhat over the next few years.

While small in comparison to Federal housing programs operating nationwide, these programs have had a significant impact in Indian country. There were 60,700 AIAN occupied HUD assisted units in Tribal Areas in 1990. This number is the equivalent of 26 percent of all AIAN households in those areas and 42 percent of those with low-incomes (below 80 percent of the local median).

**Equity in past allocations.** There is considerable variation across Tribal Areas, in the share of local low income households assisted by IHA programs—some have housed a much higher percent of their income-eligible populations than others. HUD has followed a two stage process for allocating new funding: (1) the central office allocates a block of funds to each region based primarily on indicators of comparative need; and (2) the regional offices allocate new units to IHAs using a competitive process for which the rules have changed over time. Some inequities have arisen in both stages.

**Beneficiaries.** IHA programs are serving the types of beneficiaries for which they were intended. The average annual income of the tenants in the Rental program is \$8,800—90 percent of all such tenants have very-low incomes (about the same percent as in the national public housing program). The average income for Mutual Help occupants is higher: \$18,260 (only 52 percent of them are in the very low-income category). But this is not surprising since it was expected that somewhat higher incomes would be required to meet the obligations of home ownership. The number of non-Indian occupants is negligible in Mutual Help units (2 percent) but higher in the rental program (16 percent, accounted for mostly in two regions where IHAs were created under state law as public housing authorities and were required to house other very low-income families).

**Condition and beneficiary satisfaction.** Sample surveys indicate that while physical problems in IHA units are far from trivial, they are much less severe than those of unassisted housing in Tribal Areas. Overcrowding and/or serious condition and/or facility deficiencies were reported for 18 percent of Rental program units and 28 percent of Mutual Help units, as against 45 percent of unassisted units. Program beneficiaries seem reasonably well satisfied with their housing. Survey respondents were asked for ratings on a five point scale: only 10 percent of Rental program tenants said they were "most unsatisfied", compared to 20 percent for Mutual Help occupants, and 35 percent for the residents of unassisted housing in AIAN Areas.

**Continuing demand for IHA housing.** Comparatively low vacancy rates (6 percent on average) and long waiting lists in most areas suggest that the demand for additional IHA housing remains high (our surveys indicate that the number of households on waiting lists averages about half of the total number of existing IHA units).

### **Performance in Housing Development and Management**

**HUD deregulation and management improvement initiatives.** Interviews with program managers suggest that, through the mid-1980s, the administration of Indian housing programs was fraught with conflict and operating difficulties—due much to inherent problems in the system HUD and the IHAs were assigned to administer (complex regulations and procedures). A particular problem was HUD's imposition of the cumbersome regulations of the national public housing program in Tribal Areas without reasonable adaptation. More recently HUD has made a significant effort to cut regulations and oversight, and spur better local management. While it is too early to evaluate the results, there are a number of indications that this is helping to create an environment supportive of improved performance at the local level.

**The development process** has been shortened—the average period from funds reservation to construction start dropped from 38.7 months in 1985 to 28.4 months in 1993. With good management, considerable speed is possible within the current system (at least one IHA has recently accomplished this in less than six months).

However, IHAs note several factors that still slow down delivery: (1) the lack of overall planning which frustrates project site selection and infrastructure provision (only 30 percent of IHAs have comprehensive housing plans—most of those are out of date and very few tribes have adopted clear land-use plans); (2) increasing difficulty in securing sites (reported by 40 percent—archeological and environmental requirements are frequently noted as barriers); (3) the well intended requirement to give preference to Indian contractors (52 percent say this initiative is not meeting its objective because qualified Indian contractors are too scarce to make it workable); (4) difficulty in obtaining the services of skilled development managers in remote areas; (5) interagency coordination problems—this was not considered a major obstacle but 35 percent mentioned that the Bureau of Indian Affairs (BIA) was sometimes slow in providing access roads.

**Development costs.** The per square foot cost of developing new IHA housing has been markedly reduced over the past decade—from the 1981-83 average of \$96 to the 1991-93 average of \$65 (constant 1993 \$). In the 1991-93, the average development cost per unit was \$92,300. Although many IHAs note factors they believe still push up costs irrationally (e.g., the site delay factors noted above, Davis-Bacon requirements) it is difficult to argue that this cost is substantially above what it should be given the type of housing being produced in many of the remote regions. On most reservations, there are strong cultural preferences for low-density

housing (which implies higher costs when full infrastructure is provided). Through the early 1980s HUD regulations mandated fairly high technical standards for IHA units and these too set limits on how much costs could be reduced. HUD-imposed standards have now been largely eliminated, but compliance with minimums in accepted national codes is still required and old traditions with respect to standards linger on—a natural tendency to use housing designs that have worked in the past rather than search for lower-cost, potentially controversial, alternatives.

Nonetheless, this level of cost remains an issue because under the present system, while a significant fraction of the households in need are benefiting from substantial subsidies, even larger numbers in similar circumstance receive nothing. This inequity could be remedied if more families could be assisted for the amount of HUD funding provided with programs producing decent basic homes at lower cost.

**Operating costs.** The IHAs 1993 costs of operating and maintaining completed Rental housing averaged \$188 per unit-month—a measure that exhibits very little variation by IHA size or region. This average appears reasonable in relation to similar costs for public housing where 1992 allowable expenses per unit-month ranged from \$140 for small housing authorities in the Midwest to \$358 for large public housing programs in the Northeast.

IHA operating costs in Mutual Help average \$63 per unit-month, which seems high considering that these outlays are only supposed to cover counseling and some utility allowances (not full project management and maintenance as required of IHAs in the Rental program). Mutual Help costs are more variable across IHAs. For example, the average cost for smaller IHAs (less than 100 units in management) is \$120, compared only \$52 for larger IHAs (457 units or more).

**HUD subsidies and TARS in the Rental program.** Total Rental program receipts in 1993 averaged \$219 per unit-month, \$175 of which (80 percent) was the HUD subsidy payment. Most of the remaining receipts were net payments from tenants, which were lower than they should have been because of sizeable rent delinquencies (a long-standing problem in this program). On average 36 percent of all program tenants were delinquent in their rent payments and cumulative Tenant Accounts Receivable (TARS) at the end of the year averaged \$187 per unit in management. Large rent delinquencies are a notable problem in the national public housing program as well, of course, but there are special factors to explain them in Indian housing programs where tribal law and custom rule. While some tribes enforce strong eviction policies (and therefore avoid large TARS), others either are unable to do so, because of weak tribal court systems, or unwilling to do so, because of conflicts with tribal culture.

**HUD subsidies and TARS in Mutual Help.** Total Mutual Help program receipts averaged \$67 per unit-month in 1993, only \$20 of which (30 percent) was accounted for by the HUD subsidy. This subsidy is well below (only 11 percent of) that in the Rental program, but it must be kept in mind that the incomes of Mutual Help occupants are much higher. The monthly payment for Mutual Help purchasers is set between 15 percent and 30 percent of income. IHA's can grant utility allowances to these households and, there is little evidence of IHA efforts to increase payments much beyond the minimum (i.e., it is likely that household payments on average come much closer to the 15 percent than the 30). TARS is also a notable problem in Mutual Help: 36 percent of new Mutual Help occupants, and 56 percent of old Mutual Help occupants are delinquent, cumulative TARS per unit in management is even higher than in the Rental program (\$260 in new Mutual Help units, and \$276 in old Mutual Help units).

**Maintenance and repair activity.** Maintenance and repair activity is an increasing challenge in the Rental program with the aging of a large share of the stock. Also, 65 percent of IHAs surveyed say that vandalism and tenant abuse increasingly compounding the problem. Nonetheless, there is wide agreement that the physical problems of Mutual Help are much more serious (as corroborated by sample survey results noted earlier). IHAs, asked about the causes, most frequently cited poor original construction (56 percent), inadequate resident income to cover maintenance (46 percent) and the simple failure of residents to make needed repairs (39 percent).

The history of these programs in this regard shows how rigid program designs can distort incentives. In Tribal Areas, where a very high percentage of households are families, there is an overwhelming preference for homeownership rather than rental tenure. Accordingly, most tribes emphasized the development of Mutual Help units as HUD assistance began. The economics worked reasonably well for a time, but with the dramatic escalation of utility costs in the mid-1970s, occupant incomes were much too low to cover these costs and adequate maintenance as well (our field surveys evidenced cases where Mutual Help residents simply did not use the heat and electricity provided because they could not afford to pay for them). Recognizing this, the 1980s saw much pressure to expand the Rental program (since its rules allowed HUD, rather than the occupants, to cover the costs of utilities and maintenance), even though this is clearly not the form of tenure preferred by Tribal Area residents. Other options would have been possible in a more flexible program environment (see section on innovations below).

**Modernization.** Recognizing the increasing physical deterioration of HUD-assisted units in Tribal Areas, Congress has authorized substantial additional funding for modernization in recent years (modernization accounted for only 6 percent of capital expenditure funds authorized over 1980-84, but 28 percent over 1990-93). IHAs were concerned about overly tight HUD control and allocation uncertainties associated with such funding under CIAP (the Comprehensive Improvement Assistance Program). The CGP (Comprehensive Grant Program), initiated in 1992

to rectify some of these problems, is a more flexible approach in which funds are allocated by a formula for multi-year improvement strategies. However, CGP is also faulted in two respects: (1) it has been provided only to larger IHAs (250 or more units in management)—smaller IHAs remain strapped for modernization funds; and (2) CGP requires the preparation of planning documents that are overly time-consuming.

#### **Variations in Local Institutional Performance**

**IHA diversity.** The performance of IHAs is diverse along many dimensions. Differences in size are important managerially (the top quarter ranked by size manage an average of 1,155 housing units whereas the bottom quarter manage on average only 59). Of the 187 total, 6 have only recently been founded and have not yet completed any units. Of the remainder, 24 are "umbrella-IHAs" that provide services to two or more Tribal Areas (all 13 Alaska IHAs are in this category). The remaining 157 serve only one tribe.

**IHA performance** also varies widely. In the Administrative Capability Assessment (ACA) system (initiated by HUD in the mid-1980s), IHAs are rated on several independent aspects of their performance. The composite scores (1990-93 averages on a 100 point scale) range from 3 to 97. The middle half of the IHAs fall in the range from 67 to 85. The composite ratings for 52 percent of the IHAs—high or low—have not changed much since the mid-1980s, but 23 percent have increased performance substantially, while 25 percent have experienced major declines.<sup>4</sup> Although many localized factors no doubt play a role, we found the major changes, up or down, were most often associated with a change in IHA directors.

**Factors influencing performance.** Evidence gathered in site visits suggests that IHA performance and capacity are influenced by economic and governance patterns that vary between Tribal Area settings. Statistical analysis showed significant relationships between ACA ratings and economic factors (income level and extent of private employment in the Tribal Area) but not IHA size. More important was the incidence of IHA director turnover and unstable tribal governance that often lies behind it: the 25 percent of the IHAs with the lowest ACA performance had an average of six directors over the past ten years, about twice the average for those with higher performance ratings. The lowest performers also had the highest share with IHA board directors who were appointed rather than elected by the tribe, and the highest turnover in board directors.

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<sup>4</sup>IHAs were divided into deciles according to their overall ACA ratings in two periods: 1986-89 and 1990-93. A major change was defined as occurring when an individual IHA moved up or down by two or more deciles between these periods.



### Other Housing Programs and Recent Innovations

**BIA's Housing Improvement Program (HIP)** provides grants for housing improvements, targeted to very low-income households. HIP is normally administered by the tribal governments. Most funds have been used for modest rehabilitation and repair of existing units rather than new construction, although the latter is allowable under the program. Although HIP has made valuable contributions, it has also had major administrative control problems, and at current funding levels (\$20 million per year) it cannot be expected to make much of a dent in the housing problems enumerated above. Currently, the Bureau of Indian Affairs is working to improve HIP administration and give tribes more control.

**Tenant-based assistance** programs (Section 8 Certificates and Vouchers) help low-income households rent housing of their choice in the private market (HUD subsidies make up the difference between the market rent for the unit and what the tenant can afford to pay). This approach will not work in remote Tribal Areas where a large private housing stock does not exist. However, a significant number of Tribal Areas do have such housing within their boundaries or nearby. Those earlier classified as "near urban" alone have around 20,000 households with housing affordability problems, yet HUD has so far allocated tenant-based assistance for only 4,885 families to Tribal Areas nationwide. Clearly, this is an approach that could be used more extensively.

**Financing Initiatives.** The availability of private mortgage financing that most Americans take for granted has been largely withheld from Tribal Areas (mostly because lenders have perceived additional risks due to the inability to foreclose on trust land and other legal complexities). The FHA Section 248 mortgage insurance program was established in 1987 in the hope of offsetting these risks, but the program has rarely been used (through September 1993, only 10 mortgages had been insured). A new (Section 184) loan guarantee program is being established to remedy the defects of its predecessor, but it has only recently become operational and it is too early to judge its effects.

**Two HUD block grant programs** have been used to support housing improvements in Federally recognized Tribal Areas: the Indian Community Development Block Grant (ICDBG) and the HOME Investment Partnership. Both are administered by tribal governments directly rather than their IHAs, and both permit substantially more local flexibility in spending decisions than occurs under categorical initiatives like the Rental and Mutual Help programs.

ICDBG is HUD's principal vehicle for supporting community and economic development activities in Indian communities (\$40 million budgeted in 1993). A total of over 1,300 projects in 32 states have been funded since 1980. In 1991 and 1992, 70 percent of the resources went for community facilities and infrastructure, but 18 percent was allocated to housing construction and

rehabilitation. HOME is a new block grant program, created in 1990 solely to support local housing initiatives (\$12.8 million budgeted for Tribal Areas in 1993). It can be used to support a variety of locally designed activities including tenant-based assistance, down-payments for home buyers, and housing production and rehabilitation programs. Only a few tribes have begun to apply HOME funds to date (9 percent of IHA service areas), but some creative new approaches are being devised (see discussion below).

**Local innovations.** Using HOME and other funding vehicles, tribes are experimenting with new housing assistance approaches, that would avoid some of the problems the current HUD programs discussed above. At least three principles are being applied, all in a manner that would increase the number of families that can be assisted for any given amount of Federal funding provided:

1. Leverage--instead of covering the full bill, the HUD subsidy can be a base with additional funds attracted from other sources (including private loans and loans from state housing finance authorities as well as tribal funding and family down-payments);
2. Using lower cost building plans and techniques (including self-help and incremental approaches where subsidy funds can help build a considerably more modest "starter-home" that families can improve and expand as their income increases);
3. Offering a variety of program formulas to more efficiently serve households with differing needs and incomes; for example, providing downpayment assistance only for those with incomes in the ranges just below the median, a continuum of homeownership options below that (households with incomes at the top end of this range would be required to pay a larger share of the costs than those at the lower end--shares paid by the family would change over time as their income changes), more efficient rental programs for households for which homeownership is not suitable, and more use of tenant-based assistance where a private housing stock is accessible.

Even after the substantial deregulation that has occurred over the past few years, these new approaches still could not be funded under frameworks of HUD's current Rental and Mutual Help programs. And the continued existence of these two basic formulas tend to dampen incentives to search for alternatives.

### III. DIRECTIONS FOR POLICY

#### Reforming Federal Housing Assistance

***The need for continued assistance, more efficiently delivered.*** There is much evidence to suggest that American Indians and Alaskan Natives do not want lives that are characterized by "dependency". On the other hand, continued assistance from the Federal government to Tribal Areas is not only a legal obligation in most cases (under treaties between sovereigns), all indications are that it has widespread support, borne out the recognition that its withdrawal would imply a devastating blow to the cultural richness of our nation as well as a sense of moral obligation in response to past injustices. The enormous unmet housing needs in Tribal Areas documented in this report justify expanding federal housing assistance to these Areas, but it is reasonable for Congress to expect that such assistance be delivered in a more efficient form than it has been in the past. The challenge is to provide support in a manner that leverages and expands the power of these Native Americans to control and enhance their own destinies.

***Consolidating existing programs into a block grant framework.*** HUD's recent streamlining and deregulation of its Rental and Mutual Help programs are making an important difference, but they have not gone far enough. As noted, the block grant approach offered under the HOME program is already spurring experimentation with a potentially more efficient, tidily determined array of program options. It would seem most reasonable for HUD to consolidate all of its existing funding into a block grant framework that operates generally in the same way. Given the diversity of housing problems and opportunities in Tribal Areas documented earlier, it should be clear that different strategies will be required in different Areas—sometimes varying from each other in subtle ways based on tribal culture and political realities as well as economic and physical conditions. The strategy for any individual Area ought to be designed by local stakeholders who have both the knowledge of local conditions needed to select the best mix of activities and strong locally based incentives to implement them effectively. This approach would make Indian housing policy fit better with overall U.S. Indian policy in which "self-determination" is now the dominant theme.

***Attaching fewer Federal strings, but rigorously enforcing those that are attached.*** The Rental and Mutual Help programs have suffered from overly complex regulations requiring too much HUD oversight. In a new block grant, there should be many fewer strings attached, but it is essential that some requirements remain to focus resources on basic national objectives that are the justification for Federal assistance. Probably most important in this case is requiring that the bulk of the funding be devoted to addressing the housing problems of low-income households most in need, and that some quantitative constraints be imposed to direct local decisions away from spending very large amounts on a small number of families while the

majority of those in need remain unassisted. Of equal importance, program funding should be contingent on the local preparation of a simple, publicly discussed, integrated housing strategy which shows how local leaders intend to allocate Federal and other resources. The purpose would be to make local leaders more clearly accountable to their own members (HUD would not be expected to approve the strategy, just to assure that one had been prepared). Finally, with fewer rules to monitor, HUD should be able to do a better job of rigorously auditing performance in relation to those requirements that remain. Serious penalties should be imposed for failure to comply with those requirements, and some form of bonuses should be considered to provide incentives for improved performance.

***A phased devolution, linked to capacity building.*** Other researchers of Indian problems and institutions have recently concluded: (1) when tribal governments are given a freer hand in implementing their own development, they generally perform more effectively than approaches imposed from the outside; but (2) tribes vary dramatically in the effectiveness of their governance structures. Similarly, this study has documented substantial diversity in local capacity, and this may be an important constraint on policy and program devolution. Granting full authority and responsibility for housing development to all tribes and IHAs immediately would be dangerous. Many are capable of handling it all now, including entrepreneurial innovations, but the institutional capacity of a sizeable number is not yet adequately developed.

A phased strategy for implementing the block grant approach seems warranted, in which expansions of authority would go hand in hand with expansions in capacity. The initial round of strategic planning, as called for above, might be used to help select the most appropriate path for each Area. Strategies would have to include a section on proposed institutional arrangements for implementation, and HUD would provide resources for technical assistance to help local leaders understand the various programmatic options open to them and prepare their plans.

On the basis of these submissions: (1) a large number of Tribal Areas would be given full authority to implement the full block grant approach immediately; (2) others would be given more flexibility, but be subject to closer monitoring for a fixed period as they improve their implementation capacity; and (3) yet others might have to wait for a time until they had established adequate basic capacity to begin to perform under the new arrangements. Federal agencies would have to provide an adequate level of resources for technical assistance to tribes and IHAs in the second and third categories. Existing providers of technical assistance (such as HAC and NAIHC) could have their functions targeted on the neediest tribal administrative systems.

**Husbanding existing institutional capacity--roles for IHAs and HUD.** In many Tribal Areas, sound working relationships have been established between tribes and their IHAs—it is likely that under the new approach, IHAs would naturally work with the tribes in preparing the strategy and the IHAs would be assigned as the lead implementing agency, taking on both more challenging and exciting responsibilities as they branch out from the more limited task of administering current HUD programs and become more entrepreneurial, for example, in seeking private sector financing. In some Areas, however, tribal governments might be tempted to reject the IHA role too easily. While this study has noted that IHA performance is uneven, the IHAs have generally developed a level of professional competence not easily replaced in the tribal structure. Ultimately, tribal governments should be able to select the institutional arrangements that suit them best, but constraints should be placed on their ability to eliminate existing performance capacity and professionalism unreasonably.

Under the new approach, the Federal role changes substantially, moving away from direct program implementation and toward: (1) facilitating local performance capacity (through, technical assistance, demonstrations, and information sharing functions); and (2) more careful monitoring and sanctioning of results. In fact, with its recent deregulation initiatives, HUD is already moving in these directions. This study has evidenced no major coordination problems between Federal agencies in administering housing assistance in Indian country (certainly, in part, because the non-HUD programs are comparatively so small). We judge that significant performance problems might arise, however, if there was any major shift of operating responsibilities away from HUD. HUD has built considerable capacity to understand and address AIAN housing problems and needs, and it might be difficult to rebuild this capacity elsewhere.

**A more equitable approach to allocating funds.** Systems that give Federal officials substantial discretion in allocating government funds seem often to produce inequities. This is what has occurred in the way HUD has allocated Indian housing program resources in the past. In the proposed block grant approach, funds should be allocated to Tribal Areas solely by formula in proportion to their comparative need, based on objective indicators. Recent studies have shown that formula approaches like this, based on Census data, have worked well in the national CDBG and HOME programs. The Census is really the only reliable national data source for these purposes, and analysis in this study suggests that it could be used to produce sensible allocations for most Tribal Areas. In those cases where Census area definitions may not reasonably reflect tribal settlement patterns (most often the smaller Tribal Areas), special surveys (with tight controls) could be conducted to replace Census figures. Alternatively, there could be simple grants competitions with appropriate monitoring.

**Expanding Indian access to housing assistance outside of Tribal Areas.** While not as severe as those in Tribal Areas, the housing problems of AIAN households living in other areas (metropolitan and nonmetropolitan) are more serious than those of the general population.

Administrative realism, however, argues against setting up new special program initiatives to address their problems. Rather, emphasis should be on expanding their access to assistance within the framework of Federal housing programs that already exist in those areas. This implies the need for HUD to establish special outreach efforts for Indians in all of its programs.

### **Stimulating Private Investment in Indian Housing**

As noted earlier, the number of AIAN households at moderate- and higher-income levels is substantial. Yet when categorized by income level and family status, AIAN homeownership rates are typically well below those of non-Indian households. Opportunities to increase Indian homeownership on market terms appear significant, and with modest subsidies, it should be possible to extend ownership to many more AIAN households.

A small-scale survey of mortgage lenders conducted as a part of this study, however, indicated that private lending institutions near Tribal Areas in almost all parts of the country do now regularly originate some mortgages for Indian homebuyers, although the volumes remain extremely small--the reasons include lack of knowledge and initiative by tribes and their members as well as caution due to continued perception of high risks on the part of lenders. Major lenders and secondary market institutions at the national level, however, are now exhibiting considerable interest in finding ways to serve AIAN households in all locations more effectively.

It is a positive sign that private intermediaries are beginning to recognize that expanded lending to AIAN households and communities may be a promising market opportunity. However, policy support is needed to translate this opportunity into reality at sufficient scale. Education and outreach will clearly be needed, and new institutional responses may be appropriate in a number of areas.

### **Conclusions**

In conclusion, this study has documented what is probably the worst concentration of housing problems remaining in America. Native Americans in Tribal Areas live in housing deprivation at levels which disappeared from the rest of the United States several decades ago. HUD housing programs have succeeded in building over 70,000 decent quality housing units over the past thirty years, but have left untouched huge levels of remaining need. While current programs operate with reasonable efficiency, they do so at a relatively high cost per unit and considerable inflexibility in program management.

Additional flexibility and more positive incentive patterns should be possible by consolidation of program resources in a block grant framework. Because of the unique government-to-government relationship between the Federal government and the tribes, there

will need to be careful consultation as efforts are made to transfer more management responsibilities. HUD will have to provide considerable technical assistance to tribes and IHAs in many areas, and stronger controls may have to remain for some.

Many tribes, however, should be able to implement more innovative (including private sector funded) housing strategies, and these should be encouraged to increase the level of home ownership for eligible families.

Estimate of the Market for  
Private Financing in Indian Country

Surveys and interviews conducted as part of the Urban Institute's "Assessment of American Indian Housing Needs and Programs" indicate that many tribal areas are currently underserved by the private mortgage market. This can be illustrated in many tribal area by: a) the low percent of households with a mortgage; and b) the level of higher income households living in substandard or overcrowded housing.

This section develops a preliminary model for determining the level of demand for private financing in tribal areas. To develop this model, this chapter uses 1990 U.S. Census data, MIRS data, household survey data, and a small survey of lenders to identify: the in-place market including the current composition of the mortgage market in tribal areas. Data are not, however, available to estimate the potential size of the market for mortgage financing that might result from or be caused by the residential mobility of Native American households back onto Tribal lands. The section concludes with a summation of the private market.

The geographies of interest when considering the need for private financing in Indian country are somewhat different than those we have explored in the earlier sections of the report. The geographies explored here reflect: a) different land rules and histories - reservation/trust land, New Mexico Pueblos, California Rancherias, Alaska Native Villages, TJSAs, and TDSAs<sup>1</sup>; and b) past and current initiatives to promote private lending - the past lending programs in Minnesota and Wisconsin and the recently initiated Residential Master Lease Act on the Navajo reservation.

### **The Need for Private Financing in Tribal Areas**

#### Current Mortgages

In general, while most Native Americans living in tribal areas are owners, relatively few have mortgages. Of those that reported having mortgages on the 1990 Census forms, it is probable that many were citing their payments under HUD's Mutual Help program as a conventional mortgage. Furthermore, it is unclear how many Native Americans may have had mortgages on land that only recently was designated as Trust Land.

This pattern is in contrast to Native American owner occupied households living immediately outside of tribal areas

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<sup>1</sup> See Chapter 2 for more details about the different land rules



where most of these households report having private mortgages.

Table 8.1 reports 1990 U.S. Census data which shows the total number of Native American owner households reporting having a mortgage as of 1990. From that total, we subtracted out the total number of IHA homeownership units built before 1990 that are currently in management (Old Mutual Help, New Mutual Help, and Turnkey) to estimate the number of AIAN households that currently have a private mortgage. This estimate is only an approximation as some number of Mutual Help owners may not have reported that their units had a conventional mortgage thus underestimating the size of the private mortgage market.

On Reservations and Trust Lands, the Minnesota and Wisconsin subareas are distinctive in that 27 percent of the AIAN owner households currently have a private mortgage. While this is significantly less than among owner Native American households living off tribal land (their rate is 68 percent in surrounding counties and 71.5 percent in the remaining counties)<sup>2</sup>, it strongly suggests that the Minnesota Housing Finance Authority's (MHFA) Tribal Indian Housing Program as well as efforts of private lenders in Wisconsin have had an impact.

The MHFA has, for example, assisted in the provision of roughly 1,100 subsidized mortgage loans on eleven reservations to Indian homebuyers over the last two decades. Loan subsidies have included assistance with down payments, closing costs, and monthly payments. In addition, the Associated Bank in Green Bay, Wisconsin has made roughly 70 mortgage loans for home purchase on the Oneida reservation in the last decade. The Firststar Bank in Minocqua, Wisconsin has made a number of loans under the FHA program which were then sold on the secondary market.

Little private mortgage activity has occurred elsewhere on Reservation and Trust Lands. In fact, outside of Minnesota and Wisconsin, only a small number of other Indian areas appear to

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<sup>2</sup> Even with an active private market for homeownership, it is unlikely these numbers would get close to the numbers for the off-Tribal area Native Americans because so many of the owners in Indian areas are very poor and will not qualify for private financing. Federal programs such as HIP, HOME, CDBG and Mutual Help as well as low-income rental programs (such as the Low Income Housing Tax Credit (LIHTC)) are necessary to address that other need. Homeownership is not an appropriate option to solve the housing quality problems of the many very low-income Native Americans. While there are many difficulties associated with rental housing in Indian country, the LIHTC is a tool some tribes may wish to consider in order to leverage private investment for solving the housing needs of some very low-income Native Americans.

have a noticeable number of mortgages (other than those through the IHA ownership programs). Among those areas with some level of mortgage lending activity are the Flathead Reservation in Montana, the Qualla Reservation in North Carolina, the Nez Perce and Fort Hall Reservations and Trust Lands in Idaho, the Colville, Yakima and Tulalip Reservations and Trust Lands in Washington, and the Warm Springs Reservation and Trust Lands in Oregon; each apparently have more than 50 mortgages.

**Table 8.1**  
**CURRENT MORTGAGE LENDING TO NATIVE AMERICANS**

	Total AIAN HH with mortgage	IHA Owner Units	=	Approx Num. AIAN HH with Pvt. Mtg.	Approx. Pct. AIAN Owner HH w/pvt mtg	Pct non-AIAN Owner HH w/mortgage
<u>Reservation/Trust Lands</u>						
Navajo Nation	2,472	1,901	=	571	2.1%	---
Pueblos	1,471	2,168	=	0	0.0%	---
California Tribal Areas	1,153	1,533	=	0	0.0%	---
MN/MI Tribal Areas	2,099	913	=	1,168	27.2%	---
Remaining Res/Trust Land	15,184	13,718	=	1,466	3.8%	---
<u>Other Tribal Areas</u>						
Alaska Tribal Areas	3,016	3,899	=	0	0.0%	---
TJSA (Oklahoma)	32,911	9,114	=	23,797	41.3%	53.6%
TDSA	6,701	0	=	6,701	49.7%	57.6%
<u>Near Tribal Areas</u>						
Remainder of Alaska	4,013	0	=	4,013	64.4%	73.7%
Surrounding Counties	60,357	0	=	60,357	68.0%	64.0%
<u>Remaining</u>						
Remaining Counties	141,446	0	=	141,446	71.5%	59.8%

Although the land rules for Alaska Native Villages are significantly different than for Reservations and Trust Lands, they too report no evidence of a private mortgage market. TJASAs and TDSAs do appear to have a significant percent of owner households with private mortgages - 41 and 50 percent respectively. In Oklahoma this is likely due to an established system of land leases feasible under the land allotment policy applicable in Oklahoma.

Outside of tribal areas, Native Americans owners are more likely to have a private mortgage than non-Indians suggesting that many Native Americans are actively interested in and qualified for making use of private mortgage financing.

#### Current Lending Activity - HMDA data analysis

Another method to analyze lending activity to Native Americans is to use Home Mortgage Disclosure Act (HMDA) data on Native Americans seeking and receiving loans for home purchase in metropolitan areas. Although the geographic coverage of HMDA data is limited, representing counties with only one-half of all Native American households, some lending patterns seem worthy of note.

Regression analysis was used to investigate the relationships between the percent of Native American households in counties receiving a home purchase loan in 1993 (the dependent variable) and sets of explanatory variables including standard market factors, factors unique to Native Americans, and mortgage industry factors.

Variables measuring standard market factors behaved the same way in the estimated regression model for Native Americans as for other racial groups, e.g., the proportion of Native American households receiving loans was positively (and significantly) related to their average income and homeownership rate in the county, and to the level of mortgage activity in the county.

Of greater interest are the factors unique to Native Americans: The higher the proportion of Native Americans in a county's population the lower the percent of Native Americans receiving a home purchase loan in 1993. (A dummy variable included for Oklahoma and Alaska had a positive coefficient, whereas the dummy variable for counties containing Indian areas had a negative coefficient.) Not surprisingly, higher rates of Native Americans are denied mortgages in the counties where relatively few Native Americans receive mortgages.

A potential explanation for the lower number of loans in some parts of Indian country could lie in the inability of banks to sell the loans they have made to Native Americans in those areas on the secondary market. The percent of home purchase loans made to Native Americans in 1993 that were not sold on the secondary market has a negative impact on the rate of loans made to Native Americans. None of these statistical relationships are, however, clear or robust enough to formulate clear conclusions or recommendations.

#### Housing Problems among Higher Income Native Americans

The result of a limited or inoperative private housing market in many tribal areas also appears partly responsible for the high rates of overcrowding and physical deficiency of housing in many tribal areas. While a good deal of the housing need can be attributed to past federal practices, low incomes associated with limited educations and few job opportunities, and remote locations, it appears that some of the problem is due to a lack of private financing in Indian country.

While the decennial census reports that the homeownership rate for Native Americans living in Tribal areas is 69 percent, many of these homes were built without the aid of any financing for the family. As a result, the physical conditions of this housing is often substandard. The lack of private financing makes this is true for **higher income** as well as lower income Native Americans living in many tribal areas.

Table 8.2 shows that an extremely high proportion of Native Americans living on reservation or trust lands earning 80 percent or more of median income are experiencing major problems with overcrowding and plumbing problems. These problems are highest among the higher income Native Americans living in the Navajo Nation - 62.3 percent for owners and 43.8 percent for renters. Of considerable interest, in Minnesota and Wisconsin with higher levels of private mortgage investment in tribal areas, their rates of problems are noticeably lower than on other Reservations and Trust Lands.

For those living in Alaska Tribal Areas the problems are similar to the Navajo Nation. For families earning 80 percent or more of median income, half of all renters (50.1%) and 46 percent of all owners experience major housing problems.

Table 8.2  
HOUSING PROBLEMS AMONG NATIVE AMERICAN HOUSEHOLDS ABOVE 80  
PERCENT OF MEDIAN INCOME

	AIAN HH above 80% of Median Income			
	Total	Home-	Overcrowding	
	Households	owner	and/or physical	
		rate	deficiencies	
			Owners	Renters
<u>Reservation/Trust Lands</u>				
Navajo Nation	8,912	69.6%	62.3%	43.8%
Pueblos	2,839	87.5%	23.8%	22.0%
California Tribal Areas	1,347	74.5%	13.4%	19.8%
MN/WI Tribal Areas	1,982	83.8%	10.5%	13.4%
Remaining Res/Trust Land	19,579	75.4%	17.6%	19.1%
<u>Other Tribal Areas</u>				
Alaska Tribal Areas	4,755	71.8%	44.3%	49.4%
TJSA (Oklahoma)	42,170	80.6%	3.7%	9.0%
TDSA	8,989	79.7%	8.0%	12.3%
<u>Near Tribal Areas</u>				
Remainder of Alaska	7,038	63.4%	10.0%	15.3%
Surrounding Counties	89,755	67.3%	5.8%	11.6%
<u>Remainder</u>				
Remaining Counties	206,329	67.2%	3.6%	8.6%
Total	393,695	69.6%	7.2%	11.3%

These problems for relatively higher income AIAN families on Reservation and Trust Lands and in Alaska Native Villages stand in marked contrast to AIAN households living in Oklahoma and areas near to, but not on, Tribal lands. In these areas, where private financing is available, only 9 to 15 percent of renters

and only 3 to 5 percent of owners report having major problems with overcrowding or physical facility concerns.

This sharp contrast in housing conditions for owners with higher incomes living on reservation and in Alaskan Tribal Areas compared to land for which private financing is possible may be associated with the lack of availability of credit opportunities for financing the repair, expansion, replacement, or rebuilding of their homes.

To test this possibility, regression analysis was used to compare the percent of higher income AIAN households with housing problems with the percent of households with a private mortgage.<sup>3</sup> Controlling for the fraction of households with low incomes and the fraction of households that are elderly, the percent of Native Americans who are owners with a mortgage is very negatively (and significantly) related to the percent of higher income Native American households with overcrowding and/or physical deficiencies. This suggests that the development of private financing in tribal areas would resolve a good deal of the overcrowding and facility needs among higher income Native Americans living in tribal areas.

#### **Potential Market for Private Mortgage Financing**

The size of the potential market for private lending in tribal areas can be measured by two market sectors:

- the in-place market: Native American households living in tribal areas who would likely use private financing if it were available; and
- the 'mobility' market: Native American households currently living outside of tribal areas who would move to the tribal area if private mortgage financing was available.

#### **In-place Market**

The current estimate of the potential size of the in-place market includes: (1) higher income Native American owner households with overcrowding and physical deficiency problems; (2) higher income renter households; and (3) mobility within tribal areas. Not included in this estimate are higher income households who are without any housing need who might nevertheless seek private mortgage financing for home expansion or improvement purposes.

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<sup>3</sup> For this analysis, the mutual help units were not subtracted out of the total owners with mortgages.

Table 8.3 uses the number of AIAN renters above 80 percent of median income along with the number of higher income AIAN owners with housing problems in tribal areas to provide a low and higher estimate of the in-place market.

The high estimate is simply the total number of higher income renters plus the total number of AIAN owners with facility or overcrowding needs.

The low-end estimate assumes the rental rate and level of problems can only be brought down as low as they are in Oklahoma (which is 9.4 percent of households above 80% of median income are renters and 3.7 percent of higher income owners have overcrowding or physical deficiency problems). Thus to calculate the low-end rate:

$$\begin{aligned}
 & \text{Total AIAN HH in a Tribal Area GT 80\% of Median Income} \\
 * & \quad \quad \quad .094 \\
 = & \text{Expected number of higher income AIAN HH likely to remain} \\
 & \text{renters with a private market} \\
 - & \text{Current number of AIAN HH in a Tribal Area GT 80\% of Median} \\
 & \text{Income} \\
 = & \text{Expected Market for homeownership from current AIAN renters}
 \end{aligned}$$

and

$$\begin{aligned}
 & \text{Total AIAN Owners in a Tribal Area GT 80\% of Median Income} \\
 * & \quad \quad \quad .037 \\
 = & \text{Expected number of higher income AIAN Owner HH likely to} \\
 & \text{still have overcrowding or facility problems with a private} \\
 & \text{market} \\
 - & \text{Current number of AIAN owner HH in a Tribal Area GT 80\% of} \\
 & \text{Median Income with overcrowding or facility problems} \\
 = & \text{Expected Market for homeownership from current AIAN owners} \\
 & \text{with overcrowding or facility problems}
 \end{aligned}$$

Thus to estimate the potential size of the homeownership market for Indian Country we include:

$$\begin{aligned}
 & \text{Expected Market for homeownership from current AIAN renters} \\
 + & \text{Expected Market for homeownership from current AIAN owners} \\
 & \text{with overcrowding or facility problems} \\
 = & \text{Total low-end expected market for homeownership financing} \\
 & \text{products in AIAN tribal areas}
 \end{aligned}$$

The data indicate that the total in-place market for private financing for AIAN homeownership in tribal areas ranges from a low of approximately 10,600 to a high of 30,600.

This estimated range does not, as mentioned earlier, take into consideration the possibility that some number of higher income households who did not report facilities or overcrowding may also wish to seek mortgage financing for the building or

rehabilitation of their current units and might use such improvements as a means to offer off-reservation relatives housing within the reservation.

There are also no data available from either census or HMDA that can assist in estimating the percentage of Native American renters or owners who could qualify for specific terms and conditions of financing; there is, for example, no information available on the credit worthiness of Native American households earning over 80 percent of median income. It is also clear that the estimate of need for single-family financing does not mean that Tribal leaders might not also seek financing for multifamily housing to complement their existing stock for families or the elderly. There are no data available to estimate the demand for various forms of multifamily housing. The small number of tribes with income derived from local natural resources or gaming could also help underwrite the financing of homeownership housing for their members, even when their income are not sufficient to appear as over the local median. There is no means to estimate the size of such additions to the potential for residential mortgage credit.

The estimated range of 10,600 to 30,600 is therefore only an approximation. As additional primary and secondary lending institutions initiate education and outreach efforts to tribal leaders and members the potential demand for mortgage finance could evolve rapidly, depending on the terms, conditions and types of loan products made available.

**Table 8.3**

**IN-PLACE ACCRUED DEMAND AMONG NATIVE AMERICAN HOUSEHOLDS ABOVE 80 PERCENT OF MEDIAN INCOME FOR PRIVATE LENDING**

	AIAN HH above 80% of Median Income				
	Total Households	Renters	Owners w/ Overcrowd. and/or physical problems	Estimated In-Place Low	Market High
<u>Reservation/Trust Lands</u>					
Navajo Nation	8,912	2,707	3,865	4,613	6,572
Pueblos	2,839	409	590	498	999
California Tribal Areas	1,347	343	135	180	478
MN/WI Tribal Areas	1,982	322	175	114	497
Remaining Res/Trust Land	19,579	4,811	2,592	3,059	7,403
<u>Other Tribal Areas</u>					
Alaska Tribal Areas	4,755	1,342	1,512	1,806	2,854
TJSA (Oklahoma)	42,170	8,182	1,260	0	9,442
TDSA	8,989	1,822	574	388	2,396
<b>Total</b>	<b>91,573</b>	<b>19,938</b>	<b>10,703</b>	<b>10,658</b>	<b>30,641</b>

Mobility Market

The potential for attracting non-reservation based families back onto tribal land with private mortgage financing would entail making a number of assumptions and estimates which extend beyond the capacity of existing research and data systems. The residential mobility of tribal members would be affected by the customary predictors of residential mobility including job access, educational opportunities for children, distance and means of transportation available, credit worthiness, and the types of properties and mortgage terms available. Households making such moves from renter tenure status living in a nearby metropolitan areas can be expected to differ in their mobility potential from those already living in owner occupied housing at a considerable distance from the tribal area. The potential migration of Native American elders onto their reservations to occupy retirement/elderly housing for which financing was available is another subject for additional research.



# **The Chippewa Cree Tribe of the Rocky Boy's Reservation**

Phone: (406)-395-4478 or 4210 - Finance Office  
(406)-395-4252 or 4321 - Business Committee

Rocky Boy Route, Box 544  
Box Elder, MT 59521

STATEMENT OF JOHN SUNCHILD, SR.  
CHAIRMAN  
CHIPPEWA CREE TRIBAL COUNCIL

BEFORE THE UNITED STATES SENATE COMMITTEE ON INDIAN AFFAIRS  
HEARING ON S.436, THE NATIVE AMERICAN FINANCIAL SERVICES ACT OF 1995  
WASHINGTON, D.C. JUNE 8, 1995

Mr. Chairman and members of the Committee on Indian Affairs, it is an honor to appear before you regarding legislation which holds great promise to benefit members of my tribe and all Indian tribes. The Native American Financial Services Act is based on the recommendations of many tribal leaders and Indian housing experts who worked with the Native American Commission on American Indian, Alaska Native and Native Hawaiian Housing. As you are well aware Mr. Chairman, the Commission documented the many obstacles to the development of private housing in Indian Country and concluded that a new approach is needed. If Indian people are ever going to enjoy the benefits of private home ownership on the same basis as the rest of society, a special effort must be made to bridge the gap between private financing and the reservation. The key to bridging this gap, according to the best thinking of many experts, is to create an organization that can assist local lenders put together viable mortgage loans for reservation homeowners.

At the same time, it is necessary to replenish the loan funds of these local lenders by making it possible for them to package and sell these loans in the secondary mortgage market. Thus, the proposed new organization has been referred to as the "Indian Fannie Mae".

The Chippewa Cree Housing Authority has first hand experience in tackling this problem of private mortgage financing on the reservation. We conducted, on our own initiative and at our own expense a special workshop last August on the topic of reservation mortgage financing. Inspired by the establishment of a new Indian mortgage guarantee program by the Office of Native American Programs of HUD, the so-called "Section 184 Program" authorized in the 1993 Federal Housing Act Amendments, we invited private mortgage bankers, Fannie Mae representatives, HUD and BIA representatives and Indian Housing Authority representatives from throughout Montana to a meeting on the Rocky Boy's Indian reservation. In the course of a day and a half of meetings, including tours of housing sites on the reservation, we discussed all the different steps that would be needed to make it possible for a bank to make a mortgage loan on tribal trust lands, the tribal laws to protect the leasehold mortgage rights of the banks and HUD as the guarantor of mortgage loans, and the credit or underwriting standards of Fannie Mae.

Mr. Chairman, I must report to you that almost one year later there has yet to be a single private mortgage loan made on our reservation. We have many tribal members who have steady jobs and a good credit record and who would very much like to purchase or have built their own private home. We have available homesites and have enacted a special mortgage protection ordinance law. To the best of my

knowledge, the reason we still don't have private mortgage loans being made is that banks are not convinced that their loans would be sellable to Fannie Mac. Each leasehold mortgage must be approved by the BIA and HUD must approve the guarantee and all of these steps require a sustained effort by someone with the technical expertise and resources. In addition, the water, sewer lines, electrical services and other forms of housing infrastructure are not in place for private housing areas. To the extent we have such services, they are constructed through HUD/BIA/IHS agreements that only apply to public housing. Thus a private housing developer would have to find the financing for such infrastructure from somewhere else.

Mr. Chairman, these conditions exist on nearly every Indian reservation that I am aware of and thus private home ownership continues to be simply a dream and an unmet need despite the sincere efforts of HUD, private banks and the willingness of the secondary mortgage market buyers. Tribal leaders like myself are greatly frustrated in our efforts to help our tribal members by making the existing system work on the reservation. The Native American Financial Service Organization proposed in S.436 is designed especially to assist in exactly this environment. It would be equipped to assist local lenders put the pieces together, and where necessary, assist in creating local lending organizations to be funded under the Community Financial Institutions Fund. It would assist in helping local lenders package and sell their reservation mortgage loans once they are made in the secondary mortgage market so that their lendable funds are replenished and, where necessary, purchase and hold those loans themselves where the established secondary market purchasers find that the loans do not meet underwriting standards.

Since the NAFSO would be under the control of tribal shareholders, it would be accountable to its own marketplace in terms of services and standards. Mr. Chairman, I believe that even in today's political climate, which may seem unfriendly to creating a "new federally chartered organization", this proposal should be approved. How else are Indian people ever going to be able to enter the world of private homeownership without exactly this kind of assistance?

Mr. Chairman, as a tribal leader I must look beyond the world of mortgage financing on the reservation and look at the entire context of the reservation economy. From this perspective, I would like to recommend that your Committee consider authorizing the NAFSO to also assist in the underwriting and issuing of tribal bonds for financing infrastructure and other forms of economic development on the reservation. Very few tribes have been able to exercise their ability to issue government purpose and private activity bonds due to the restrictions on the Tribal Government Tax Status Act which Congress imposed in the 1988 Tax Amendments.

I know that further amendments to this tax provision is one of your high priorities and you are supported in this effort by tribes across the Country. I am confident that under your leadership the time has come to remove these restrictions and tribal bonding authority will be revitalized. However, there are still very important practical constraints on tribes in making use of this bond financing authority that could be addressed by the NAFSO. Like most rural governments,

tribal governments do not have in house expertise to put bond issues together, and, when they involve relatively small amounts of money, find that the issuance fees can be prohibitive. Unlike most county or small municipalities, we do not have access to state financing offices who traditionally assist in packaging and taking such bond issues to the marketplace. This would seem to be a function that would be very compatible to the other purposes and functions called for in S.436. I would like to respectfully request that you consider amending the bill to specifically authorize such a role for the NAFSO at appropriate places in the bill.

Mr. Chairman, thank you again for the invitation to present testimony to your committee on this important legislative proposal. I hope your staff would be willing to meet with my attorney in discussing a number of technical amendments to the bill as a followup to this hearing.

## MEMORANDUM

TO: JOHN SUNCHILD

FR: ALAN PARKER

RE: CHANGES NEEDED IN NAFSO BILL, S.436

Based on a realistic assessment of the Indian reservation economic conditions in which the NAFSO is intended to function and the services to be performed in support of Native American mortgage lending, I believe that the following changes to the bill, S.436 are essential for the NAFSO to be successful:

1) The NAFSO should be authorized to organize and began operations as soon as the appointed Board of Directors select management: The key shortcoming to the organizational plan contemplated in S.436 is the assumption that tribes will purchase class A stock as soon as it is offered. The bill provides that tribal shareholders will select 6 of the 9 Directors and only then will the NAFSO began operations. I do not believe that it is realistic to assume that tribes will decide to invest their own capital until the NAFSO can produce a financial statement placing a value on its assets and a credible projection of its earnings and expenses. Instead, the bill should direct that the appointed board shall be representative of Indian Country and shall have the authority to appoint management, approve a business plan and actually begin operations. One year after starting operations, class A stock can then be issued and offered to raise capital and provide an ownership participation opportunity to tribal investors.

2) The NAFSO should not have its hands tied terms of its authority to draw down initial capital from the Community Development Financial Institutions Fund created under P.L. 103-325, (hereinafter, the "fund") In section 203 of the bill the initial grant (capital infusion) from the fund is conditioned upon whether the NAFSO and the Fund enter into a cooperative agreement. I strongly recommend that the Committee change the bill language to direct that the Fund shall provide the Native American Lending Services Grant as soon as the Board certifies that the NAFSO is ready to begin doing business. Further, the NAFSO should also have the authority to determine which Native American Financial Institutions (NAFI's) should qualify for matching grants of capital from the Fund. The concept that there will be a network of local, native owned financial institutions created or organized in Indian Country to be supported with matching capital grants and NAFSO technical assistance is very key to the whole idea of S.436. However, NAFSO is intended to be "the expert on Indian mortgage lending" and its role is to identify and recruit NAFIs to serve as local reservation mortgage lenders. The Fund has a key role to play but it should be strictly in support of NAFSO. NAFIs may be already existing local Indian owned banks, credit unions, finance corporations, etc. or they be created in response to the business opportunity represented by the establishment of NAFSO and the availability of

matching grants from the Fund. They must be able to succeed in the difficult market conditions on reservations if the NAFSO idea of significantly enhancing mortgage lending in Indian Country it to succeed.

3) The NAFSO should not be restricted from directly purchasing Native American mortgages from local lenders until the Secretary of HUD first certifies that FNMA and FHLMC have not done \$20 million worth of such mortgages. All the evidence indicates that only a handful of private mortgages are now being made in all of Indian Country and it makes no sense to impose a condition on the NAFSO that would restrict its ability to operate until such a certification is made by HUD. This suggests that the NAFSO may be able to assist the GSE's in generating this volume of business and thus not ever have to be in the secondary market business itself. The NAFSO needs to have all available tools or authorities available to it from the outset.

4) The NAFSO must be able to issue debt that is guaranteed by the federal government in some manner. The restrictions in section 302 on NAFSO debt instruments and the requirement that fee income must pay for operating expenses are unduly restrictive. FNMA, FHLMC and GNMA have been very successful and profitable Government Sponsored Enterprises because they have been doing business in an established marketplace. The Indian reservation economy imposes very serious constraints on profitability and that is mainly why NAFSO is needed. If banks and FNMA, et. al. could make a reasonable return on their investment they would be doing the usual business in Indian Country. The transaction costs for each Native American loan will continue to be very high for local lenders and, in order for NAFIs and NAFSO to succeed they must have both their transaction costs and the cost of money subsidized. In addition to the operating and capital grants authorized in S. 436 and PL 103-325, the NAFSO must be able to borrow at below market rates, an ability best achieved by having the organizations debt guaranteed by the federal government.

TESTIMONY  
OF  
ROBERT CAUTHIER, EXECUTIVE DIRECTOR  
OF THE  
SALISH KOOTENAI HOUSING AUTHORITY  
ON  
S. 436, THE NATIVE AMERICAN FINANCIAL SERVICES  
ORGANIZATION ACT OF  
1995  
BEFORE THE  
SENATE COMMITTEE ON INDIAN AFFAIRS  
June 8, 1995

Good Morning - Chairman McCain, Vice-Chairman Inouye, and distinguished members of the committee.

Thank you for this opportunity to appear before you today and continue the dialogue begun by this body nearly three years ago with the Creation of the National Commission on American Indian, Alaska Native and Native Hawaiian Housing.

My name is Bob Gauthier. I am an enrolled member of the Salish Kootenai Tribes on the Flathead Indian Reservation in northwest Montana. I have served the 7,000 members of our Tribe as Housing and Community Development Director for over twelve years.

I have also served on HUD's secretary's committee on the boards of the National American Indian Housing Council, Amerind, (America's Indian Insurance Company insuring 75,000 Indian Housing units nationwide), and currently serve on the board of the Federal Home Loan Bank, Seattle Branch. I also served as chairman of the National Committee created by this body and responsible for recommending a National Indian Housing finance mechanism to facilitate existing programs on Native lands and educating Native about resources available to them to address their housing finance needs. The proposal developed and being discussed today is a product of this effort.

Let me just take a minute and discuss this overall task of bringing financing too to America's Native peoples. I won't waste anyone's time by discussing the well documented need for affordable housing in Indian Country today. I am certain this distinguished committee has a good grasp on the urgent need.

The single point I want to make today in my brief appearance before you is that the answer in solving American Native housing dilemma is in developing sustainable streams of capital to offer leverage to Tribe and individual Indians. The many financing opportunities offered to Americans as a whole simply does not exist for Native People!



The reasons are varied, but in Indian Country the primary reason for the lack of financing is restricted lands, held in trust by the United States Government. The second obstacle is a lack of qualified lending institutions on or near reservations. Nearly one million reservation Indians have access to commercial banking facilities, including mortgage lending. Even with the development of the HUD 184 program, substantial change cannot be facilitated until we have more lenders available in these remote areas. This is the reason I am here today. To ask your support of the Native American Finance Services Organization (NAFSO).

The legislation as proposed by Senator Campbell S.436 and supported by the Administration is much different than that proposal initially offered by the Commission. It is much less ambitious in scope and has as its focus an emphasis on the creation of technical assistance in lending. I believe that this is a needed step in the ultimate development of a sound and fit financial market in Indian Country. In other words, we need to give Indian people the expertise to develop and manage their own systems.

I would like to thank this committee, Senator Campbell, Secretary Cisneros, Joe Shoups and Dom Nassi from HUD for their absolute commitments to the effort thus far. We have collectively accomplished much. Since I appeared before this Committee two years ago the Federal Home Loan Bank systems, led by the Seattle Branch and its President, Jim Faulstich has done a tremendous job of education their members banks as to the opportunities in Indian lending. Their publication, Bringing Private Resources to Native Lands has been enthusiastically received throughout the country. The Federal Reserve Bank of Kansas City publishes a special supplement on Lending in Indian Country that accurately presents the cultural, legal and business issues of Native lending. The awareness level of lenders and the secondary market is at an all time high. The missing component is an educated local population of facilities at the tribal level. NAFSO can help alleviate this problem through its education and technical assistance component. In closing, I would like to stress these facts. Native people have depended on Federal housing assistance for 50 out of 100 homes. American Indians depend on Federal Housing assistance 4 out of 100 homes. \_\_\_\_\_ to permanently solve the Indian Housing problem, we need to assist the existing HUD programs by developing a sustainable source of credit for American Native population to build their communities.

Thank you.

**TESTIMONY ON S. 436  
THE NATIVE AMERICAN FINANCIAL SERVICES  
ORGANIZATION ACT OF 1995**

**THE HONORABLE DANIEL K. INOUE  
VICE-CHAIRMAN**

**Presented by  
Kali Watson, Chairman  
Hawaiian Homes Commission  
State of Hawaii**

**Aha Kaulike U.S. District Court Room  
Honolulu, Hawaii**

**June 1, 1995**

Aloha, Senator Daniel K. Inouye and Members of the United States Senate Committee on Indian Affairs. Thank you for the opportunity to testify on S. 436, a proposal to improve the economic conditions and supply of housing in Native American communities through the creation of a Native American Financial Services Organization.

My name is Kali Watson, Chairman of the Hawaiian Homes Commission. We support the purpose and intent of S. 436 and recommend that this Committee consider including native Hawaiians in the proposal.

The Hawaiian Homes Commission is a major provider of land and housing for native Hawaiians. Like other Native American groups, Hawaiian home lands cannot be alienated and the wide range of financing opportunities are not available to our homestead lessees without intervention by the trust itself. This requirement of the U. S. Congress in 1921 restricts the availability of financing for native Hawaiian infrastructure, home construction, and economic development on trust land.

**I. HAWAIIAN HOMES COMMISSION**  
**BACKGROUND INFORMATION**

The Department of Hawaiian Home Lands (DHHL) is one of 18 principal departments of the Executive Branch of the State of Hawaii. The Hawaiian Homes Commission (HHC) is the policymaking board comprised of nine members appointed by the Governor of Hawaii with the consent of the State Senate. The Chairman of the Commission serves as the full-time administrator of the DHHL.

The primary mission of the HHC is to settle native Hawaiians on lands which were set aside for their exclusive use and to effectively manage trust assets set aside by the United States Congress through the Hawaiian Homes Commission Act.

Pursuant to the Act, the DHHL provides direct benefits to native Hawaiians in the form of 99-year homestead leases at an annual rent of \$1. Homestead leases may be extended for an aggregate term not to exceed 199 years. Leases are provided for residential, agricultural, or pastoral homestead purposes.

As of April 30, 1995, DHHL had awarded total of 6,090 homestead leases --- 4,766 residential, 1,026 agricultural, and 298 pastoral leases. There are 27,290 applications for homestead leases --- 15,141 residential, 10,559 agricultural and 1,590 pastoral applications.

By law, homestead leases are awarded to native Hawaiian applicants who are at least 18 years old and of 50% or more Hawaiian ancestry. The actual number of individual applicants is estimated at 16,000 because a person may apply for two types of leases.

One major impediment to implementing the department's mission has been the lack of sufficient financial resources. Estimates to satisfy the existing waiting list of 16,000 applicants total \$1.4 billion dollars for infrastructure development and an additional \$1.4 billion for home loans. The requirement that the land assets be inalienable severely limits access to financing opportunities.

Preliminary results of a recent DHHL study indicate that there are 50,000 persons of at least 50% Hawaiian ancestry who are potential applicants. As the

waiting list grows, significant financial resources in excess of \$2.8 billion will be required to satisfy native Hawaiian needs and promote their advancement as envisioned by the Hawaiian Homes Commission Act, 1920, as amended.

## **II. NATIONAL COMMISSION ON AMERICAN INDIAN, ALASKAN NATIVE AND NATIVE HAWAIIAN HOUSING**

In an attempt to explore alternatives to meet the growing needs of the native Hawaiian beneficiaries, the HHC Chairman participated on the National Commission on American Indian, Alaskan Native and Native Hawaiian Housing (Commission).

As stated in the Final Report of the Commission, the primary purpose of creating a Native American Finance Authority was that this agency would be eligible for a substantial federal subsidy to assist Native communities in developing affordable housing and infrastructure.

The Commission's Supplemental Report identified two fundamental concerns regarding the creation of a Native American Finance Authority:

- (1) a crucial need exists for more and better housing and housing related infrastructure to meet basic standards for Native people; and
- (2) financial structures and institutions necessary to provide housing and ancillary infrastructure do not exist for this segment of the American population.

It was envisioned that the Native American Finance Organization would be empowered to work with Native American governing bodies and housing authorities, and public and private lenders, to create and administer housing programs. These housing programs would enable Native people to meet their current needs better by helping them find private capital to build housing and related infrastructure in Native communities.

The Commission recommended that the United States adopt a broader approach, not only in developing housing programs, but also in determining who should be served by them. All Native communities suffer severe housing shortages and infrastructure problems.

The Commission further stated:

"Nowhere is this apparent discrimination in the delivery of federal housing assistance more disturbing than in the State of Hawaii. The native Hawaiians have federally authorized access to their Hawaiian home lands, but key federal housing programs are not extended to them. The native Hawaiians' history, their socio-economic condition, and legal precedents justify extension of federal housing programs to the Hawaiian home lands."

There are striking similarities between the problems confronting native Hawaiians and those facing American Indians and Alaska Natives who live on reservations or other restricted home land areas. Loss of tradition and culture, limited access to urban centers, limited availability of capital, lack of infrastructure

and restricted use of lands held in trust are among the problems faced by native groups. Just as federal housing programs have been expanded to include American Indians and Alaska Natives, so too should they be expanded to include native Hawaiians.

### **III. ASSESSMENT OF NEEDS**

Hawaii's land and housing costs, among the highest in the United States, continue to have serious impacts on native Hawaiians. The 1990 U.S. Census showed that native Hawaiians are most likely to live in the most crowded conditions and are most likely to live in substandard housing of any ethnic group in Hawaii.

DHHL and native Hawaiian access to Federal funds and programs have been restricted in part because of a lack of federal recognition of native Hawaiians as a Native people. While the DHHL/HUD mortgage programs are capable of meeting the needs of those native Hawaiians with moderate incomes, native Hawaiians with low incomes do not qualify and have few financing options.

1995 survey data indicate that 71.2% of DHHL beneficiaries earn less than 80% of the Median Family Income (MFI) set by the U.S. Department of Housing and Urban Development for Hawaii. 42.5% of the native Hawaiians on the DHHL waiting list are below the 50% MFI: 22.7% are in the 0-30% MFI and 19.8% are in the 31-50% MFI.

The median family income of native Hawaiians is \$35,765 compared to the overall State median family income of \$37,375 and HUD median of \$53,600 for the State of Hawaii.

	<b>Homesteaders</b>	<b>Applicants</b>	<b>State</b>
Average Household Size	4.5	4	3.2
Crowding ratio	1.5	1.5	1.01
Affordability	\$800-1,100	\$500-800	\$800-1,100
Below 80% of Median	53.2%	45%	35.1%
Monthly Housing Cost	\$500-800	\$500-800	\$500-1,099

Based on 1992 analysis 1990 Census Data by Alu Like, Inc.

DHHL currently manages 1,576 loans under its direct loan program. The direct loan program addresses the need for non-qualifying mortgage loans, that is, loans that would not meet the standards of the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

DHHL has made 845 Guaranteed and Insured loans made under various Memorandae of Understanding (MOU) with lenders. The MOU generally provides that the DHHL will take back the loan in the event of a foreclosure, effectively insuring that the lenders will not lose money in the processing of a foreclosure transaction.

Native Hawaiians have benefited from Federal loan programs. DHHL has participated in 355 loans to homesteaders under the Federal Housing Administration (FHA), 311 loans under the Farmers Home Administration (FmHA), 45 loans under



the U.S. Small Business Administration (SBA), and 24 loans under the Veteran Affairs Program (VA).

The geographic limitations and loan ceiling levels preclude more homesteaders from program eligibility. Since Hawaiian home lands cannot be alienated, similar to other tribal lands, sufficient resources must be maintained to reduce the contingent liability exposure to the State of Hawaii and DHHL, as well as remain below the State's DHHL loan guarantee ceiling of \$21 million as provided for in Hawaii Revised Statutes Section 214 (b)(5).

Greater access to Federal programs, such as the Native American Financial Services Organization, with certain modifications, could significantly benefit the native Hawaiian community and may accelerate the process of settling the native Hawaiians on their lands as originally envisioned by the U.S. Congress.

#### **IV. RECOMMENDATIONS**

DHHL recommends that the Committee consider including native Hawaiians in S. 436. As established by the U.S. Congress, Hawaiian home lands were set aside for native Hawaiian advancement. Similar to other native people, Hawaiian home lands are held in trust and are non-alienable. Most financing options are not available without continued intervention by the trust. We believe native Federal housing opportunities should be extended to native Hawaiians.

Based on our review of S. 436, DHHL believes it could be strengthened to enhance its effectiveness for native Hawaiians.

Page 8

S. 436 can contain a statement that, in Hawaii, any loans made under this program will not affect the State guarantee ceiling as provided for in Hawaii Revised Statutes Section 214 (b)(5). Without this special provision and authorization at the State level, the intent of S. 436 could be limited since the ceiling would effectively restrict the total amount of loans that could be made.

Section 202, paragraph 3 B(i)(II) on page 22, line 16 of the bill creates an obligation of the Native American Financial Institution to participate in the loan in an amount of not less than ten percent of the loan. This provision should be eliminated in the case of Hawaii. DHHL's experience with the FmHA, VA and FHA insured programs do not require participation since the MOU itself provides an adequate guarantee of repayment. A ten percent participation for the life of the loan would significantly reduce the level of available loan resources.

S. 436 could include provisions for Federal subsidies for native Hawaiians in lower income brackets. For example, a subsidized buy down program could effectively reduce mortgage interest rates to assist individuals in the 0-50 MFI group. While special grants would be required, we recommend that the Committee consider provisions to reduce overall housing costs to those with the greatest need.

We believe that the inclusion of native Hawaiians in S. 436 offers the potential to improve the economic conditions and supply of affordable housing on Hawaiian home lands. Certain amendments are offered for your consideration to expand the target population and enhance the program's effectiveness here in Hawaii. Thank you very much for this opportunity to testify.

**BEFORE THE U.S. SENATE  
COMMITTEE ON INDIAN AFFAIRS**

**Testimony of Mary Minchew, Vice Chair  
Hawaiian Home Lands Action Network**

**RE: S. 436**

**JUNE 1, 1995**

Mahalo Senator Inouye and Committee members for this opportunity to address you today. My name is Mary Minchew and I represent the Hawaiian Home Lands Action Network (HHLAN). Formed in 1992, our primary interest is promoting, preserving and protecting the rights of native Hawaiians to the lands to which they are entitled under the Hawaiian Homes Commission Act (HHCAA) and Section 5 (f) of the Hawaii Admission Act.

I appear before you today to speak in support for this bill in forming a Native American Financial Services Organization Act of 1995 with strong reservations. There are three areas that need to be amended to specifically include native Hawaiians into the Act, assure their participation in the process, and increase the amount of funding.

In Section 103. DEFINITIONS, pages 5 & 6, there are definitions for Alaska Native, Indian Tribe and Native American, but none for Native Hawaiian. This bill should be amended to add on Native Hawaiian, defined as anyone with Hawaiian ancestry. This should also be inserted throughout the bill when applicable.

In Section 201. ESTABLISHMENT OF THE ORGANIZATION, part (B) Terms, page 11 should be amended to assure that at least 2 native Hawaiians be included in the Board of Directors, as appointed or elected members.

Section 206. ADVISORY COUNCIL, part (b) (1), line 9, it should be amended to, " and 1 native Hawaiian representative from the State of Hawaii."

Section 601. AUTHORIZATION OF APPROPRIATIONS FOR NATIVE AMERICAN FINANCIAL INSTITUTIONS, part (a), line 17, should be amended to increase the amount of \$20 million for appropriations.

Section 602. AUTHORIZATION OF APPROPRIATIONS FOR ORGANIZATION, line 5, also should be amended to increase the amount of monies HUD is allowed to appropriate to, "provide not more than \$20 million to the Fund..."

If these amendments are made, the Hawaiian Home Lands Action Network is in strong support of this bill. These amendments will allow native Hawaiians to benefit from this bill, it will guarantee their participation in the process, and assure their involvement in the advisory council. Because of the amount of native Indian and Alaskan tribes, native Hawaiians will be competing for monies that may not 'trickle down' to them because of the many established Indian and Alaskan organizations. \$20 million will not be enough to sufficiently provide native Americans the opportunity to improve the bad economic and housing conditions plaguing their communities, as intended.

HHLAN would like to thank the parties that introduced this bill and hopes it will pass through the U.S. Congress

**MAHALO FOR THIS OPPORTUNITY TO TESTIFY**



## SELF-HELP HOUSING CORPORATION OF HAWAII

1427 Dillingham Blvd., Suite 302  
 Honolulu, Hawaii 96817  
 Telephone (808) 842-7111  
 Toll-Free 1-800-336-4035

June 1, 1995

To : The Honorable U.S. Senator John McCain, Chair  
 Committee on Indian Affairs, United States Senate

The Honorable U.S. Senator Daniel K. Inouye, Vice-Chair  
 Committee on Indian Affairs, United States Senate

From : Claudia Shay  
 Executive Director

Re : Testimony in Support of S. 436 with Amendment

The Self-Help Housing Corporation of Hawaii offers testimony in support of S. 436 and respectfully requests that the bill be amended to provide full representation for Native Hawaiians in the Native American Financial Services Organization.

The Self-Help Housing Corporation of Hawaii, a private non-profit organization, provides technical assistance to low-moderate income families and special needs population including Native Hawaiians, enabling them to build their own homes through the team self-help method.

In a state with the highest housing prices in the nation, SHHCH has been successful in assisting 130 low income families to build three and four bedroom homes for \$40,000/unit while appraised at \$90,000. By utilizing the "sweat equity," subsidies on financing, land write-downs, and creative financing, etc., SHHCH has enabled low income families, who otherwise would not have had the opportunities, to attain homeownership.

Throughout its ten years of service SHHCH has interviewed hundreds of Native Hawaiian families, many of whom have participated in the self-help projects. Many of these families lived in severely sub-standard conditions, or very crowded situations with two and three families doubled up in three bedroom homes. It was not unusual to find a young family with two or three children living in one room in their parents' house. Several families were homeless or "hidden homeless" ie living with family in crowded situations and about to be displaced.

In addition to the appalling living conditions, there were several recurring problems inhibiting the families' ability to obtain mortgage financing including: inconsistent employment, high debt/income ratios, credit problems, lack of knowledge, inability to budget family income, lack of knowledge of available resources, unrealistic goals of attaining homeownership, etc. To ameliorate these situations it was necessary to provide intensive financial counselling to the families as well as several months of preparatory work to ready them to become homeowners.

Committee on Indian Affairs  
U.S. Senate  
Testimony in Support of S. 436  
Page Two

Coupled with these serious economic and social difficulties, there were other barriers to developing affordable housing projects for Native Hawaiian families. Due to the inalienable nature of the trust land under the guardianship of the Hawaiian Homelands Commission, it has been extremely difficult to secure mortgage financing. In 1986 when SHHCH developed its first self-help project exclusively for Native Hawaiian families, it was even necessary to amend federal legislation under the Farmers Home Administration to adapt it to special circumstances with the Native Hawaiian loans.

Today, however, there are still only three types of mortgage financing available on Native Hawaiian land - the FmHA 502, FHA, and VA financing programs. It is only with a state mortgage guarantee that these programs are available. In addition to the limited programs and limited funding, lenders have a perception that these loans are "high risk" because they cannot be sold on the secondary market. It is quite obvious from these problems that there is a need for more mortgage financing on Native Hawaiian lands, more diversity of mortgage programs that can be utilized on Native Hawaiian lands, and a need for a secondary market which can accept these non conforming loans.

Native Hawaiian families in Hawaii not only experience the severe housing crisis in the state as the general population, but are further crippled by the restrictions for mortgage financing on the Native Hawaiian lands. The time has come now to enable Native Hawaiian families to return to their "aina" and attain economic self-sufficiency, a condition once enjoyed by their forefathers before their disenfranchisement.

Towards this end I strongly urge the Committee on Indian Affairs to adopt an amendment to S. 436 by including Native Hawaiians in the legislation. Native Hawaiians experience the same problems as other Native Americans. Should there be a means to ameliorate their serious housing conditions by enactment of this legislation, then Native Hawaiians should be able to benefit from this as do other Native Americans.

United States Senate  
 The Committee on Indian Affairs  
 Washington, D.C.  
 Senator John McCain Chairman  
 Senator Daniel K. Inouye Vice Chair

Page (1)

May 30th 1995

From: Kawika Gapero

Representing **"HUI KA KO'O AINA HOO PULA PULA"**

(Non-profit Organization that represents 17,000+ Native Hawaiian beneficiaries who are currently on the Department Of Hawaiian Homelands Waiting List)

To: Support for creation of The Native American Financial Services Organization through the introduction of Bill S.436 on which is our hope to include Native Hawaiians.

Aloha to our distinguish committee members!

My name is Kawika Gapero and I am here representing Native Hawaiians who are currently on the Department Of Hawaiian Homelands "Waiting List" that was mandated by Congress in 1921. The intent of this Act was to establish the mechanism to provide for Native Hawaiians to become "self-sufficient" and to preserve our culture by returning Native Hawaiians to the land.

Unfortunately the federal government has repeatedly denied that it has any trust responsibilities for native Hawaiians under the Hawaiian Homes Commission Act either prior to or following Hawaii becoming a state. If indeed that the Hawaiian Homelands program were to have been facilitated for its true intent and not compromised, scrutinized, demoralized we as beneficiaries to the "trust" might have had a better chance in attaining "self-sufficiency". Instead we still suffer the effects of this great injustice that has been done to the Native Hawaiian.

We are not here to blame anyone nor to look for any hand outs. What has been done has been done. We have identified those problems and we want to work hand in hand both with the Federal and State government cohesively in finding solutions that will better our conditions in its entirety. We as Native Hawaiians are hoping that congress in passing of this bill, will include without discrimination Hawaiians, Alaska Natives, and All Native peoples so that we can access federal agencies to facilitate housing initiatives and programs including economic development.

In reading of this Bill S.436 in which the creation of the "NAFSO" the Native American Financial Services Organization will be created. The Bill which is defined as "To improve the economic conditions and supply of housing in Native American communities and for other purposes." We have to understand what these other purposes are and how it will effect Native Hawaiians. The NAFSO proposal will enable the

Page(2)

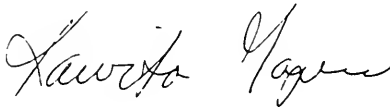
organization to work with the "**Community Development Banking and Regulatory Improvement Act of 1994(Public Law 103-325)** which purpose is to create funding to help establish community development banks. We are at this present time researching ways to set up a Native Hawaiian Housing Corporation in which a coalition of native communities through out the state and also to include Native Hawaiians in the process who currently lives away, but who would have other wise be living on their homelands if it was'nt for the economic conditions. that exist here on their beloved homelands.

NAFSO will provide the technical assistance needed in coordinating efforts through the Community Development Fund Initiative known also as **CDFI**. NAFSO will assist us to access capitalization dollars through the CDFI to set up small community banks who in turn will help economic development as well as housing. There is an overwhelming need for housing with in the Native Hawaiian community. Over crowding,deplorable living conditions and most of all financing incapacibilities. This how ever does not hold true for all native Hawaiians who have other wise defied and refuse to be defeated by the very system that was established to help us to exercise that right to access our ancestral lands although that percentage is not as high as we would like it to be.

Hopefully with the passage of the "Bill" we will finally see some positive directives that will encompass all Natives of these Lands. We have been supported in (2) resolutions by the **National American Indian Housing Council** which is an organization that represents 187 Indian Housing Authorities through out the United States and Alaska for the federal government to recognize "that the tribes special trust relationship is binding of all federal agencies to all Native peoples including Native Hawaiians and Alaska Natives." This resolution was drafted and passed unanimously. **NAIHC** also supports the efforts of Native Hawaiians to obtain decent,safe,sanitary and affordable housing

It is our hope that all Hawaiian Organizations will support this effort and hope that we can at least lay the grounds for future generations access and start needed programs that will help all Native Peoples. We strongly urge the inclusion of Native Hawaiians in the Bill S 436

Thank you!(Mahalo)  
Kawika Gapero





BENJAMIN J. CAYETANO  
GOVERNOR



ROY S. OSHIRO  
ACTING EXECUTIVE DIRECTOR

**STATE OF HAWAII**  
DEPARTMENT OF BUDGET AND FINANCE  
**HOUSING FINANCE AND DEVELOPMENT CORPORATION**  
877 QUEEN STREET, SUITE 300  
HONOLULU, HAWAII 96813  
FAX (808) 587-0600

IN REPLY REFER TO:

**TO:** The Honorable John McCain, Chair  
United States Senate Committee on Indian Affairs

**FROM:** Roy S. Oshiro, Acting Executive Director  
Housing Finance and Development Corporation

**SUBJECT:** FEDERAL LEGISLATION TO ESTABLISH A NATIVE AMERICAN  
FINANCIAL SERVICES ORGANIZATION

**Hearing:** Thursday, June 1, 1995; 10:30 a.m.  
Aha Kanewai Courtroom, Prince Kuhio Federal Courthouse

This legislation proposes to improve the economic conditions and supply of housing in Native American communities by creating the Native American Financial Services Organization. This legislation must go a step further by giving Native Hawaiians the same housing opportunities as proposed for other Native Americans. The Housing Finance and Development Corporation (HFDC) supports the inclusion of Native Hawaiians so that they may also benefit from this legislation.

As an housing advocate, HFDC supports any legislation that would provide additional funds to assist in meeting the housing needs of Native Hawaiians.


HFDC would like to defer any specific comments to the Department of Hawaiian Home Lands as they are the lead state agency in this area. Thank you for the opportunity to present written testimony



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STATE COUNCIL OF HAWAIIAN HOMESTEAD ASSOCIATIONS

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TESTIMONY OF

Kamaki Kanahale  
 Chairman  
 State Council of the Hawaiian Homestead Associations

Before the  
 U.S. Senate Committee on Indian Affairs  
 Vice Chair, Daniel K. Inouye  
 Honolulu, Hawaii  
 June 1, 1995

Aloha Mr. Chairman, members of the Committee:

My name is Kamaki Kanahale, Chairman of the State Council of Hawaiian Homestead Associations (SCHHA). The SCHHA is the State's largest native Hawaiian organization, representing 23 Homestead Associations with a membership of approximately 30,000. I am also President of the Nanakuli Hawaiian Homestead Community Association.

I am here today to seek support, from the Committee on Indian Affairs, for the inclusion of Native Hawaiians to S. 436, a bill to improve the economic conditions and supply of housing in Native American communities by creating the Native American Financial Service Organization.

The SCHHA is on record, by formal Resolution (enclosed) at its State Convention, August 24, 1993, of unanimously supporting the recommendations of the National Commission on American Indian, Alaska Native and Native Hawaiian Housing (the Commission). Also, at the Commission's quarterly meeting, December, 1993, the SCHHA included in its testimony the recommendation for a National Native American Financial Services institution.

Our relationship with our brothers and sisters of the great plains, the Sacred Hills and mountains and all the lands of their ancestors, with their brothers and sisters from the islands of the seas, has grown with Mana, Lokahi, and Aloha. The recent arrival of the National American Indian Housing Council (NAIHC) last month to Hawaii brought the largest attendance to their convention in many years. I was honored to be asked by the NAIHC to bless their convention.

While the NAIHC was here in April, the SCHHA hosted them on our home lands (Waimanalo and Nanakuli), breaking bread together, conducting spiritual ceremonies and coming together as one. Mr. Chair, in all this, we discovered we ARE one people and that the possibilities of working together as one people to better the conditions for all native Americans across this great nation has been occurring.

Our problems, issues and, concerns are the same when it is dealing with we native peoples. The opportunity to work together in solving housing and socio-economic needs for all native peoples can be a continuing positive reality if this Committee will allow it. Precedence has been set in the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing Act which includes Native Hawaiians. Such a recommendation would also, be consistent with the Commission's draft recommendation of July 2, 1993, "The Native American Finance Authority Act", which included Native Hawaiians.

The results of our working relationship with our Native American brothers and sisters has been and continues to be a Native American success story. The SCHHA supports an amendment to S. 436 to allow these good works by the Congress to continue.

Mahalo Nui Loa for the opportunity to testify.

## RESOLUTION

**REQUESTING THE STATE COUNCIL OF HAWAIIAN HOMESTEAD  
ASSOCIATIONS' (SCHHA) SUPPORT FOR THE RECOMMENDATIONS  
OF THE NATIONAL COMMISSION ON AMERICAN INDIAN, ALASKA NATIVE  
AND NATIVE HAWAIIAN HOUSING.**

**WHEREAS**, the National Commission on American Indian, Alaska Native and Native Hawaiian Housing was established pursuant to P.L. 101-235 for the purpose of evaluating factors currently impeding the development of safe and affordable housing for native people; and,

**WHEREAS**, the National Commission on American Indian, Alaska Native and Native Hawaiian Housing has prepared a report of its findings and recommendations to the Congress and Secretary of Housing and Urban Development; and,

**WHEREAS**, in recognition of the critical need for housing assistance among the native Hawaiian beneficiaries of the Hawaiian Home Lands Trust, the Commission has proposed a number of significant recommendations aimed at increasing native Hawaiian access to the range of federal housing programs available to other native Americans; and,

**WHEREAS**, the Commission has specifically recommended that the federal government acknowledge its trust responsibility to native Hawaiians under the Hawaiian Homes Commission Act, 1920, as amended; and,

**WHEREAS**, the Commission has further recommended that amendments be made to the 1937 Housing Act to include native Hawaiians within certain housing programs currently available to American Indians and Alaska natives; and,

**WHEREAS**, both the native American Indian Housing Council (NAIHC) consisting of 185 Indian housing authorities from across the nation and the National Congress of American Indians (NCAI), which representing 119 tribal governments, have voted overwhelmingly to support the Commission's recommendations to include native Hawaiians within these various Indian housing programs; and,

**WHEREAS**, the State Council of Hawaiian Homestead Associations (SCHHA), whose membership includes nineteen Hawaiian Homestead Associations from across the State of Hawaii, is the elected voice of homesteaders on Hawaiian Home Lands; and,

**WHEREAS**, the SCHHA is holding its annual convention from August 13-15 1993 at Makaha, Oahu, Hawaii;

**NOW THEREFORE BE IT RESOLVED THAT THE schha support the recommendations of the National Commission on American Indian,**

Alaska Native and Native Hawaiian Housing and that it urge the United States Congress to take appropriate action to implement the Commission's recommendations; and,

**BE IT FURTHER RESOLVED** that certified copies of this resolution be transmitted to the National Commission on American Congressional Delegation, the Secretary of the Interior, the Secretary of Housing and Urban Development, the Governor of the State of Hawaii, and the Chairman of the Hawaiian Homes Commission.

**STATE COUNCIL OF HAWAIIAN HOMESTEAD ASSOCIATIONS**  
State Council Executive Board

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KAMAKI A. KANAHELE III  
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*Josiah Black HooHuli*

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ETHEL EKELA ANDRADE  
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NATALIE TASHA KAMA  
CORRESPONDING SECRETARY

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Ochie Bush  
Ochie Bush, President  
Hoolehua Homestead Association

Luana Hamakua  
Luana Hamakua, President  
Kamiloloa-One Alii Homestead Association

Henrietta Mokiao  
Henrietta Mokiao, President  
Kapaakea Homestead Association

Keola Kalanui, President  
Keola Kalanui, President  
Keaukaha Hawaiian Homestead Community Association

Judy Stewart  
Judy Stewart, President  
Kekaha Hawaiian Homestead Association

Kamaki Kanahale  
Kamaki Kanahale, President  
Nanakuli Hawaiian Homestead Community Association

Debbie Richards  
Debbie Richards, President  
Papakolea Community Association

*Clarence K. Kama'i*

Clarence Kama'i, President  
Paukukalo Hawaiian Homestead Community Association

*Olive Kepa (K)*

Olive Kepa, President  
Waianae Hawaiian Homestead Community Association

*Genevieve Clubb (K)*

Genevieve Clubb, President  
Waiehu Kou Homestead Association

*Anthony Sang*

Anthony Sang, President  
Waimanalo Hawaiian Homestead Association

*Dan Kanoho*

Dan Kanoho, President  
Waimea Hawaiian Homestead Association

*Tasha Kama*

Tasha Kama, President  
Waiohuli Keokea Homesteaders, Inc.

*Liliuokalani Ross*

Liliuokalani Ross, President  
Waimea Puukapu Agriculture Association

*Annie K. AuHoon*

Annie K. AuHoon, President  
Kewalo Hawaiian Homestead Community Association

*Herbert Hew Len*

Herbert Hew Len, President  
Waianae Kai Hawaiian Homestead Association



STATE OF HAWAII  
 OFFICE OF HAWAIIAN AFFAIRS  
 711 KAPOLANI BOULEVARD, SUITE 500  
 HONOLULU, HAWAII 96813-5248  
 PHONE (808) 594-1888  
 FAX (808) 594-1885

TESTIMONY SUPPORTING THE INTENT OF S. 436  
 RELATING TO CREATION OF THE  
 NATIVE AMERICAN FINANCIAL SERVICES ORGANIZATION  
 AND PROPOSING AMENDMENTS

June 1, 1995

Aloha kakahiaka Senators Inouye and Akaka. I am Steve Morse, Housing Officer for the Office of Hawaiian Affairs (OHA) and I speak this morning in support of the intent of S. 436 Relating to creation of the Native American Financial Services Organization.

As we understand it, the general purpose of this bill is to improve the economic condition and supply of housing in Native American communities by creating the Native American Financial Services Organization, which will:

1. help establish and provide technical and financial assistance to Native American Financial Institutions;
2. promote access to mortgage credit in Native American communities in the United States;
3. promote the infusion of public and private capital into Native American communities for housing and economic development purposes; and,
4. provide ongoing assistance to the secondary market for residential mortgages and economic development loans for Native American individuals, families, and financial institutions.

While these purposes are laudatory and worthy of support, OHA is concerned with the language of the bill because it does not provide for Native Hawaiian participation and fails to address the clear need for housing and economic development on Native Hawaiian lands.



In fact, we find it sadly ironic that we are excluded because Native Hawaiians helped shape the policies that served as the foundation of this bill through our participation on the Commission on American Indian, Alaska Native and Native Hawaiian Housing,

It makes no sense that we are excluded. Our traditions and histories are similar to other native American groups throughout the United States, and our problems, needs, and desires are certainly very much the same. And, like other Native American communities, the lack of access to private capital to finance housing and economic development for Native Hawaiians has led to serious housing shortages and poor living conditions that critically affect our health and welfare.

OHA and other native Hawaiian organizations like the Dept. of Hawaiian Home Lands (DHHL) are doing our best with the resources we have to improve these conditions. Thanks to our ceded land income claims settlement with the State two years ago, OHA, with approximately \$180 million in our asset pool, is now in a position to commit more resources and use our asset base to leverage private capital. For example:

1. OHA, with the cooperation of DHHL and First Hawaiian Bank, established a \$20 million Revolving Home Loan Program for Native Hawaiians on Hawaiian Home Lands. This program provides \$10 million in funding for home improvement and repair loans and \$10 million for down-payment loans that assist Native Hawaiians in purchasing new homes on Hawaiian Home Lands.
2. Our Housing Division is also working to expand a self-help housing program from one that averaged 10 homes a year for the past three years to one that will facilitate the building of 300 homes in the next three to five years for Hawaiians statewide.
3. We have also prepared a long-range Housing and Community Development Plan that is designed to build or re-build sustainable Hawaiian communities throughout the State. With the assistance of a \$500,000 affordable housing grant from the Federal Home Loan Bank of Seattle, we are planning to develop our first project as part of this long-range plan. Under an agreement we have reached with DHHL, this project will be located on a parcel of Hawaiian Home Lands in Waimanalo, Oahu. It will include 60 units of low-income rental housing for elderly native Hawaiians, a community center that will serve the broader Hawaiian homestead community in that area, and a commercial center that will be designed to stimulate economic activity and ultimately build wealth into this community. This project is expected to be completed in June, 1997.

4. In addition, OHA's Economic Development Division, with loan principal grant assistance from the Administration for Native Americans has established a successful business loan program for Native Hawaiians called the Native Hawaiian Revolving Loan Fund. As of April 30, 1995, OHA has approved 259 loans under this program, totaling \$11,528,708, to Native Hawaiians who could not qualify for conventional financing.

The division has also been working closely with various Native Hawaiian communities to facilitate economic development activity within these communities through its Community-Based Economic Development (CBED) program.

Both of these programs seek opportunities to attract otherwise unavailable private capital by leveraging OHA's financial and technical resources.

But the problems of poverty, housing, and health and the general lack of wealth in Hawaiian communities are so widespread and of such immense proportions that our resources alone cannot resolve them. That is why the inclusion of Native Hawaiians in this bill is so important. It will make possible the development of creative opportunities for constructive private sector financial participation through leveraging of OHA and DHEH's resources.

OHA proposes amending S. 436 to provide for Native Hawaiian participation as follows:

1. Amend Section 103. Definitions, by adding the following definition for Native Hawaiians: any individual who is a descendant of the aboriginal Polynesian people and who, prior to 1778, occupied and exercised sovereignty and self-determination in the area that comprises the State of Hawai'i.
2. Amend Section 103. Definitions. (10) Native American. to read, "The term 'Native American' means any member of an Indian tribe and Native Hawaiians, as previously defined in this section.

We also propose amending the bill by increasing the \$20 million appropriation to \$100 million.

By making these amendments, the Committee will begin the process of removing financing barriers that have impeded development of housing on Native Hawaiian lands and economic activity in Native Hawaiian communities. It will also begin the process of correcting long standing injustices and fulfilling the Federal government's trust responsibilities to native Hawaiians.

Mahalo a nui loa for providing us with this opportunity to provide testimony. I will be happy to answer any questions you might have.

The Gibson Foundation  
 Waiakea Villa  
 400 Hualani St., Suite 194, Bldg. 10  
 Hilo, Hawaii 96720  
 (808) 961-2888

May 26, 1995



WILLIAM E. GIBSON  
 President and Director  
 KAHALA-ANN TRASK GIBSON  
 Secretary-Treasurer and Director  
 RENATA FOSTER-AU  
 Vice President and Director  
 NALEEN ANDRADE, M.D.  
 Director  
 HERB KANE  
 Director  
 MILILANI TRASK  
 Executive Director

Senator Daniel Inouye  
 Senator John McCann  
 Senate Committee on Indian Affairs  
 Aha Kanawai Bldg.  
 U.S. District Court  
 Honolulu, HI 96813

Re: S. 436 - The Native American Financial Services Organization

Aloha Senators and Members:

I am pleased to present this testimony on behalf of the Gibson Foundation. The Gibson Foundation was created in 1987 as a non-profit 501(c)(3) corporation to service the needs of native Hawaiians seeking affordable housing. Our primary charitable activities include:

- Facilitating the construction of low-income housing for disadvantaged people of native Hawaiian descent, independently or in conjunction with other human service agencies, on lands set aside for native Hawaiians by federal or state law. Where possible, the Foundation proposes to involve the targeted community in the construction of the homes they will occupy thereby providing residents with marketable skills as well as with shelter.

Since our creation in 1987, we have worked with many Hawaiian families and with several self-help projects on Hawaiian Homelands, State Ceded Lands and private lands. In addition, we have worked with other non-profits and for profit corporations and federal and state agencies who provide housing services and financing for Native Hawaiian housing needs.

There is extensive evidence of the compelling need for support for the development of housing on Hawaiian Home Lands and State 5(f) Ceded Lands. This record includes the following:

1. In 1993, the National Commission on American Indian, Alaskan Native and Native Hawaiian Housing (hereinafter the Commission) which investigated the housing needs of native Americans and Hawaiians issued a report documenting the following:

- “(A) Native Hawaiians are seriously over-represented in the State’s homeless population;
- (B) Of those applicants on the waiting list for Hawaiian Home Lands, 19.5 percent of the applicants and 17.8 percent of their spouses are employed, a substantially higher rate than the general State population;
- (C) The average Native Hawaiian household size is 4.25 persons, as compared to the statewide average of 2.97 persons; and
- (D) The median Native Hawaiian family income is substantially below the 1988 State average of \$39,600;
- (E) Native Hawaiians have the worst housing conditions in the State of Hawaii and the highest percentage of homelessness, representing over 30 percent of the State’s homeless population; and
- (F) Native Hawaiians suffer lack of access to conventional financing due to the trust status of their home lands and a frequent inability to meet income requirements.”

The Commission concluded in its report that the unique circumstances of Native Hawaiians required that new legislation be enacted to alleviate and address the severe housing needs of the Native Hawaiians.

The Commission recommended that the Congress remedy the housing problems facing Native Hawaiians by extending to them the same Federal housing assistance available to American Indians and Alaska Natives under the Low-Income Rental, Mutual Help, Loan Guarantee, and Community Development Block Grant programs of the Department of Housing and Urban Development.

Despite the creation of Federal housing programs designed to benefit low and moderate income families, Native Hawaiian families residing on Hawaiian Home Lands have been precluded from access to these programs because of the exclusive nature of the trust lands, thus denying to Native Hawaiians those same benefits available to all other qualified Americans.

2. The 1993 report of the Commission was based in part on the record established in August 1983 by the Federal State Task Force on the Hawaiian Home Commission Act in its report to the United States Secretary of the Interior and the Governor of the State of Hawaii. The Task Force report documented in detail several problems relating to development of housing and financing of same by Native Hawaiians.
3. The nature of the deprivation suffered by Native Hawaiians in their respect was the focus of an inquiry undertaken by the Hawaii Advisory Committee to the U.S. Commission on Civil Rights in 1979, 1988 and 1990. In December 1991, the report of this investigation was published under the title: A Broken Trust, the Hawaiian Homes Program: Seventy Years of Failure of the Federal and State to Protect the Civil Rights of Native Hawaiians. The report made the following findings and recommendations:

“Finding 1: The Hawaii Advisory Committee concludes that the United States has failed to exercise its trust obligations to the beneficiaries of the Hawaiian Homes Commission Act, as mandated by Section 5(f) of the Hawaii

#### Admissions Act.

The statute specifically entrusts oversight responsibilities to the Federal Government and grants its exclusive authority to enforce the provisions of the act. Despite this, correspondence to the Chairman of the U.S. Commission on Civil Rights from both the U.S. Departments of Interior and Justice denies Federal trust duties. It is clear that the United States has now abandoned any interest in protecting the trust.

The retreat is unacceptable to the Advisory Committee, especially in light of overwhelming evidence that the objectives of the Hawaiian Homes Commission Act have not been achieved in 70 years of Federal and State administration. Refusal by the Federal Government to monitor compliance, investigate complaints, and take appropriate legal actions, constitute a denial of the civil rights of Native Hawaiian trust beneficiaries.

#### Recommendation 1: Congressional Action;

The Congress should enact legislation establishing a clear Federal trust duty to Native Hawaiians for fulfillment of the Hawaiian Homes commission Act. In view of the current Federal reluctance to accept trust obligations under the act, this congressional action is a fundamental prerequisite to any meaningful Federal participation in corrective actions to repair the trust and make it effective.

#### Finding 2: Unlike other Native Americans, Hawaiians have never received the privileges of a political relationship with the United States.....

The lack of formal recognition of Native Hawaiians by the Federal Government has resulted in their inability to enjoy eligibility for Federal programs designed to assist Native Americans and other protected groups....

#### Recommendation 2: Federal Recognition of Native Hawaiians

The Congress should promptly enact legislation enabling Native Hawaiians to develop a political relationship with the Federal Government comparable to that enjoyed by other native peoples in the nation. Such legislation would encourage the realization of sovereignty and self-determination for Native Hawaiians, a goal that this Advisory Committee strongly endorses.

The legislation should also explicitly confer eligibility to Native Hawaiian beneficiaries for participation in Federal programs designed to assist Native Americans, Alaska Natives and other protected groups who have suffered from historical discrimination.

#### Finding 5: The United States has failed to provide funding support or sustained technical assistance for implementation of the Hawaiian Homes commission Act. This failure has persisted despite the fact that the legislation was enacted by the United States Congress and that most of the damage done to the trust occurred during the territorial period. With the exception of limited

technical and "housekeeping" initiatives, the Federal Government has largely ignored the findings and recommendations of the Federal-State Task Force.

**Recommendation 5: Federal Funding and Technical Support**

The U.S. Congress should enact legislation establishing a fiduciary responsibility of the United States for accomplishing the purposes of the Hawaiian Homes Commission Act. Enhanced Federal financial support is critical to the success of the program.

In addition, the U.S. Department of the Interior should provide technical assistance and support to help the State of Hawaii effectively implement the program."

The documents and reports referred to above demonstrate that there is a critical and compelling need for the Congress to address the housing needs of Native Hawaiians, to provide financing and technical assistance on the Hawaiian Home Lands and the State Ceded Lands.

In 1993 and 1994, the Gibson Foundation was asked to work with the committee on S. 2150. At that time, we suggested the financial, technical and housing assistance should be provided by the Congress for both Hawaiian Home Lands and Ceded Lands. This is critical because water resources needed for housing on DHHL lands are located on State Ceded Lands.

We urge the Committee to consider the record and to adopt an amendment to S. 436 which will authorize native Hawaiian participation.

Sincerely,



Mililani B. Trask  
Executive Director

Mrs. Lei Kalamau  
 President, Aboriginal Native Hawaiian Assn.  
 Mokupuni O Kauai A Me Niihau  
 Kauai Board of Director, Hui Kako'o Aina Ho'opulapula  
 Native Hawaiian Beneficiaries on Dept. of Hawaiian Homelands  
 Waiting List

P.O. Box 1104  
 Waimea, Kauai, Hawaii  
 96796  
 Tel. (808)337-915

May 30, 1995

Senator John McCain, Chairman  
 Senator Daniel K. Inouye, Vice Chairman  
 United States Senate  
 The Committee on Indian Affairs  
 Washington, DC 20510-6450

RE: Support for Senate Bill 436 with Amendments to Authorize  
 Native Hawaiian Participation and To Create Native American  
 Financial Services Organization

Dear Senators McCain and Inouye:

It is with tremendous delight I submit written testimony to your Committee on Indian Affairs in efforts to participate as a native Hawaiian, along with my fellow native Hawaiians on the island of Kauai, State of Hawaii.

My name is Mrs. Lei Kalamau. I have volunteered myself for the past nine years to bring together native Hawaiians who are on the Dept. of Hawaiian Homelands (DHHL) Waiting List, commonly called DHHL Applicants.

Nine years of waiting to be awarded a parcel of set aside 203,500 acres more or less. The DHHL is responsible to carry out the mandates of the Hawaiian Homes Commission Act (HHCA) that Congress passed in the 1920's via the Admission Act at which time the State of Hawaii assumed this responsibility. Today, in 1995, we still waiting.

Enclosed as Exhibit "A", is a written testimony dated December 10, 1993, to Senator Inouye indicating the National Commission on American Indian, Alaska Native and Native Hawaiian Housing received testimony at DHHL Waimea, Hawaii, island of Hawaii, District Office during Christmas time 1991, four years ago. It explains what the native Hawaiian has been going through to obtain a decent place to live. And we're still waiting.

As you may know by now, DHHL has made substantial in-roads relating to money to put us on the land from the Waiting List. Exhibit "B" was released to me on May 22, 1995 by DHHL showing new lands on the Westside of Kauai. As a result of transferring lands from Dept. of Land & Natural Resources (DLNR) to DHHL. West Kauai will have 20 residential acres in Kekaha, 346.72 residential acres in Hanapepe and 5.777 Commercial acres in Hanapepe. However, these acres are not DHHL priorities until 1997 or as long as 1999.

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 The Committee on Indian Affairs  
 Support To Create Native American Financial Services Organization  
 May 30, 1995

The 1995 State of Hawaii Legislature is about to fund DHHL with \$30 million dollars a year for 20 years beginning July 1, 1995. These funds have already been earmarked for native Hawaiians with specific problems DHHL is addressing and won't be solved until 2 years from now. In the meantime, West Kauai may wait for the next increment of \$30 million dollars by 1997 so that DHHL puts us on their priority lists. Each year DHHL keeps us waiting, the more poor we get.

It is so ironic that this year of 1995, movements for DHHL Applicants have been accomplished, yet we still won't see the effects in months; we're still looking at YEARS for our turn to be awarded at West Kauai.

The native Hawaiians on the DHHL Waiting List that I know and have met during my nine years as President here on Kauai, comprise of working people, shy people who are not familiar with standing in front of a body of important people like yourselves and personally testify for themselves. Some do not have time nor the means to leave their families and come to testify in person especially to fly to Honolulu and be in front of you today. I feel for them, I feel of them to confidently -- say for them, "It's time you listen to us too!"

--The Applicants' earnings does not go up, yet the price of a home does DHHL has a Turn-Key program where Bids are requested from the Construction Industry, Infrastructure and homes are built-ready to move in. Then, out of 4,000 names they go through, only 250 awardees are Pre-Qualified to enter the homes.

--Self-help housing. Applicants build each others' homes. DHHL prefers not to have homes look the same. The Applicant is unable to afford higher priced homes.

--There's a story in Exhibit "A" where a private development company sought public support to build Affordable Housing on the Kekaha 20 residential acre site. The company were met with strong community opposition. I was in support of this Housing plans because I wanted to get out of where I was living and move in to a brand new, safer, sanitary housing condition as I knew there were other Applicants who needed better living quarters like myself. My rent is \$350 a month and my husband is not employed due to a back injury. Today, we live the same way and the Kekaha site is still vacant except for 1 donkey and horses left there by their owners. DHHL now has title for that same site but priority will be given to Anahola, located on East Kauai and we live at West Kauai, 45 minutes away. As a result, we have all been living the same way since Exhibit "A" was presented.

Financial qualification must be created to suit the special needs of the poor or they'll never own their own home even when they waited years for their name to be called. We have to do something now as there are a lot of families still living the best they can tolerate and soon they need relief!



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We are preparing to become a functioning state corporation made up of native Hawaiians once the NAFSD is no longer Congressionally chartered. DHHL has funded a Task Force now called Hui Kako'o Aina Ho'opulapula, an entity for DHHL Waiting List Applicants. We have our Articles of Incorporation, By-Laws, 501 (C) 3 IRS Tax Exempt Status and received a Grant for an Executive Director who works with the Board of Directors located on each island in the State of Hawaii. Hui Kako'o is in its beginning stages and room for added growth with native Hawaiians willing to work for the "betterment of the conditions for native Hawaiian

Yes, our economic condition and supply of housing in Hawaii for native Hawaiians is urgently needed by the creation of the Native American Financial Services Organization and for native Hawaiian participation.

Thank you,

*Mrs. Lei Kalamau*

Mrs. Lei Kalamau

LEI KALAMAU  
President  
XXXXXX  
SUE ANN E. CHAN  
Secretary  
KEKOA KALAMAU  
Treasurer  
PATRICIO LICAYAN JR.  
Sec. At-Large



"E Mana Kikou Me Kauloha I'mehane Ne Kamali"  
(We work for the love of our children)

P.O. Box 1104  
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Telephone: (808) 337-9136

# BOARD OF DIRECTORS

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December 10, 1993

TO: Senator Daniel K. Inouye  
THE SENATE COMMITTEE INDIAN AFFAIRS

FROM: Mrs. Lei Kalamau, President-Aboriginal Native Hawaiian Assn.  
Mokupuni O Kaula 'I A Me Niihau

RE: testimony on the Hearing to Extend to Native Hawaiians the Same  
Federal Housing Programs Now Provided to Other Native People's  
of the United States

The National Commission on American Indian, Alaska Native and Native Hawaiian Housing received testimony at the Waimea, Hawaii Dept. of Hawaiian Homelands District Office on the island of Hawaii around Christmas time of 1991. I was there. I remember visiting that island with my family who has a place at Kawaihau Homestead where there's no water infrastructure. Every day, they have to haul water from Spencer Beach Park to their living quarters of a distance of at least a mile or two away from the water to their living quarters. This has been going on for 4 years with 3 children, their father and their mother who is my sister. I would never be able to live in those conditions, always having to empty their portable toilets at the beach park every day not withstanding the smell they endure. They are truly practicing one of many forms of self determination. At least my sister received a lease award from the Dept. of Hawaiian Homelands. By sheer luck, another sister informed me of that hearing of which I testified then.

Today, 2 years since my testimony to the National Commission, I wish to submit testimony once again although no invitation was afforded to me. As a grassroots applicant on the DHHL waiting list, I feel you may benefit in your decision to help the native Hawaiian.

Testimony to the Senate Committee Indian Affairs  
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Then, soon, I may benefit as well as all other Applicant/native Hawaiian along side me. We are truly tired of being oppressed by our fellowman. Enclosed you will find a recent picture of me with the article that was circulated this past Monday, December 6, 1993 in our island-wide newspaper, The Garden Island from Kauai.

On Wednesday evening, I attended a Housing Committee meeting put together so that an 18-acre Dept. of Land and Natural Resources (DLNR) Ceded Land Affordable Housing Development Program may be implemented for the West Kauai Kekaha community. The conclusion of this 3½ hour meeting was a January 13, 1994 Public meeting for Kekaha Gardens and Kekaha Hale residents to gather input as to whether or not they would like a Housing Project of Ghetto-style neighbors to live next to them. This is the picture painted in their minds of us. I truly do not consider myself someone who would make my neighbors look bad. I would rather like to think I would help to improve our brand-new community so that everyone would have pride where we live and make a better neighborhood where those residents lives.

At the meeting, I expressed how uncomfortable I felt that native Hawaiians were not afforded the same opportunity as the Kekaha Gardens and Kekaha Hale residents to give input at this January 13, 1994 meeting. How convenient to be told, "You are in the category of "PUBLIC", so you are still able to attend and give input also".

This remains to be seen if native Hawaiians on the DHHL Waiting List, seeking to live in Affordable Housing Rentals as a temporary alternative to waiting for their award from DHHL, will be able to give their input. Faced with so much opposition from those residents, added feelings of depression continue to batter our spirit. We are cut down at the lowest level where we can't or are not given even a chance to show this community what we are really made of. Now, we are forced to wait for the DHHL to issue an award. There are no DHHL lands available in Kekaha. This 18-acre parcel of Ceded Lands would be the only location available to the native Hawaiians who have family on Niihau that come to Kauai and need a place to stay for physician's visits. 100% native Hawaiians being turned away from possible temporary Affordable Housing for fear of added drug infested, welfare recipient tenants.

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So you see an ongoing list of hurdles to jump. In addition, the effects of Hurricane Iniki still ensue as a growing number right around me become displaced due to their FEMA assistance running out; Families split because housing not big enough to house a son, who now has to live with his father, divorced from the son's mother; Applicants living under current housing rules where a renter's boyfriend is unable to live in the same house so they have to sneak him in each nite; Three families having to live under one roof, with that house busting out at the seams with people; DHHL Homesteaders unable to find re-financing for their mortgage at less than 9 1/2% interest; Kent at \$350 a month but you paint the walls, walk on bare plywood with water pressure so light, you have to stand in the shower for half an hour to rinse your body of soap, especially when you have to shampoo your hair. It's either endure or go live on the beach and be absolutely homeless because you cannot find Affordable Decent Housing. Yes, we sure need HELP!!! As Applicants, never being a Homeowner, those of us who have tarnished our credit rating in our past will have an enormous task to clear this record, with no job available to the native Hawaiian. How do we become Homeowners at this rate!!!!

Yet, with all this negative surrounding us, our Spirits may be battered but it is also resilient. We bounce back to the positive! With God's help and your help, Mr. Inouye. We have willing hearts, hope for our future that God is mindful of our plight. Our prayers have been answered and are still being answered. We haven't given up yet.

We are so grateful to Hoaliku Drake and the DHHL for creating the Statewide Organization of Hawaiian Home Lands Applicants Task Force. I'm so proud to have been designated as the Kauai representative.

My hope has been renewed where it was severely depressed during earlier 1993. My husband will testify to that. As we have no children, I'm happy they are not around to have seen my depression. All children is considered mine, for I love them as if they were mine.

Thank you Mr. Inouye, for continuing this hope we have in our hearts.  
Respectfully submitted, PLEASE HELP MRS. DRAKE GET MONEY FOR US WHO  
ARE ON THE DHHL WAITING LIST!!!!

Mrs. Lili Kalama

Exhibit 6  
NEW LANDS ON KAUAI  
FOR HAWAIIAN HOME LANDS

A	B	C	D	E	F	G	H	I
ISLAND	LOCATION	TNIX	DISTRICT	ACRES	STATUS	EXISTING	EXISTING	EXIST USER
Kauai	Kekaha	1-2-02-33 per	Wainae	20	II	vacant	RP 5860	Pioneer (L)-Bred
Kauai	Ilanapepe	1-8-07-03	Koloa	346.72	II	agriculture	RP 6627	Onokele Sugar
Kauai	Ilanapepe	1-8-08-35	Koloa	5.777	II	Commercial	RP 6485	Anfac
Kauai	Ilanapepe	1-8-08-35	Koloa	0	II	Commercial	RP 6749	Pacific Aviation
Kauai	Wailua	3-9-02-03 per	Kawailua	43.42	II	Pasture/water	GI 4650	Kauai Gravel/Convey
Kauai	Wailua	3-9-02-12	Kawailua	320.192	II	agriculture	PG 2771.29	Lihue Plantation
Kauai	Wailua	3-9-02-17	Kawailua	9.96	II	agriculture	GI 4585	Walter Palmetta
Kauai	Wailua	3-9-02-24	Kawailua	12.353	II	Pasture	GI 4413	Lihue Plantation
Kauai	Wailua	3-9-02-25	Kawailua	67	II	Pasture	GI 4120.126	Lihue Plantation
Kauai	Wailua	3-9-02-26	Kawailua	12	II	Pasture	GI 4413	Lihue Plantation
Kauai	Wailua	3-9-02-27	Kawailua	14	II	agriculture/pasture	GI 4120.126	Lihue Plantation
Kauai	Wailua	3-9-06-09	Kawailua	41.291	II	agriculture	GI 4585	Lihue Plantation
Kauai	Wailua	3-9-06-11	Kawailua	11.482	II	agriculture	GI 4959	George Fernandez
Kauai	Kapaa	4-5-03-06	Kawailua	1.871	II	residence	RP S-6773	Daisy Long Aguar
Kauai	Kapaa	4-5-13-03	Kawailua	11.092	II	vacant		Chris Melton
Kauai	Kapaa	4-5-13-34	Kawailua	5.7	II	Commercial	RP 6589	Wanda Woods
Kauai	Kapaa	4-5-13-57	Kawailua	0.06	II	vacant		
Kauai	Kapaa	4-5-13-58	Kawailua	0.06	II	Commercial	RP 6347	Paul Leach
Kauai	Keala/Kamalomalo	4-7-02-04 per	Kawailua	963.4	II	agriculture/pasture	GI 4576	Lihue Plantation
Kauai	Kamalomalo	4-7-04-02 per	Kawailua	6	II	agriculture/pasture	LI 0295	Lihue Plantation
Kauai	Kamalomalo	4-7-04-07 per	Kawailua	0	II	agriculture/pasture	GI 4576	Lihue Plantation
Kauai	Anahola	4-8-01-01 per	Kawailua	62.2	II	agriculture	PR 0066	DLNR
Kauai	Anahola	4-8-03-01	Kawailua	0	II	agriculture	GI 5162	Lihue Plantation
Kauai	Anahola	4-8-03-04	Kawailua	0	II	agriculture	LI 309	Lihue Plant
Kauai	Anahola	4-8-03-06	Kawailua	0	II	agriculture	PR 467601.36	Lihue Plantation
Kauai	Anahola	4-8-03-11	Kawailua	0	II	agriculture		
Kauai	Anahola	4-8-03-15	Kawailua	0	II	agriculture		
Kauai	Anahola	4-8-03-22	Kawailua	0	II	agriculture	LI	Lihue Plantation
Kauai	Anahola	4-8-03-29	Kawailua	0	II	agriculture	GI 4576	Lihue Plantation
Kauai	Total Acres			1,908.81				

## NEW LANDS FOR HAWAIIAN HOME LANDS

PART OF EFFORT TO RESTORE HAWAIIAN HOME LANDS TRUST  
 AUTHORIZED BY LAND BOARD OCTOBER 28, 1994  
 ACCEPTED BY HAWAIIAN HOMES COMMISSION DECEMBER 20, 1994

### LAND TRANSFERS

<u>ISLAND/AREA</u>	<u>ACRES</u>
KAUAI	1.948
MAUI	2.625
MOLOKAI	399
LANAI	50
HAWAII	11.054
OAHU	<u>442</u>
TOTAL	15.618

### CLEAR TITLE

WAIMANALO	379
ANAHOLA	<u>1,501</u>
TOTAL	1,880

### NEW HAWAIIAN HOME LANDS AREAS

KAUAI:	HANAPEPE, WAILUA
MAUI:	KAANAPALI, PUUNENE, HANA
MOLOKAI:	UALAPUE EAST END
LANAI:	LANAI CITY
HAWAII:	NORTH HILO, KONA, HONOMU, OLAA, KEAHOLE
OAHU:	HONOLULU, KAPOLEI, WAIHAOLE

### NEXT STEPS

COMPLETE CONVEYANCES OF LAND TO DHHL  
 GENERAL PLAN UPDATE  
 AREA MASTER PLANS  
 DEVELOPMENT OF LAND FOR AWARDS



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